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Vol. 27

(Apr. 1, 1937 - Mar. 31, 1938)

The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, April 1, 1937

No. 1

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ORDER No. 54045

367787
10.6.39

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12.

SATURDAY, the 6th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. E-4790, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. E-4790, approved herein, are as follows:—

Item		Cents per 100 pounds		
		Groups		
		H	K	L
50	Minimum 40,000.....	181½		
	" 60,000.....	157		
200	..... L.C.L.	417	425½	428½
220	..... C.L.	215	219½	221
240	..... L.C.L.	319	325½	328
	Minimum 20,000.....	367½	375	377½
	..... L.C.L.	236½	241	243
	" 24,000.....	367½	375	377½
280	" 60,000.....	236½	241	243
	.....	101	103	104
	.....	77	78½	79
	From Bridgetown, N.S.....	120		
	From Bridgetown, N.S.....	96		
	Minimum 40,000.....	159½	162½	164
	From Bridgetown, N.S., minimum 40,000.....	179½		

Item		Cents per 100 pounds		
		Groups		
		H	K	L
290	11.02½			
400		367½	375	377½
410		465½	475	478½
425	L.C.L.	367½	375	377½
	Minimum 30,000.....C.L.	217	221½	223
430		155½	158½	160
465	From Yarmouth, N.S.			
	On Cotton, duck, etc.....L.C.L. 368½			
465	On cotton, twine, etc.....L.C.L. 330			
	Minimum 30,000.....C.L. 205½			
490	L.C.L.	367½	375	377½
	Minimum 30,000.....C.L.	163½	167	168
500	L.C.L.	342½	349	350½
	Minimum 30,000.....C.L.	184	187½	189
510		367½	375	377½
520		367½	375	377½
530		465½	475	478½
540		367½	375	377½
550		465½	475	478½
775		240½	245	247
880	Minimum 36,000.....	139½	142	143
	“ 25,000.....	198	201	203½
890	“ 30,000.....	159½	162½	164
	“ 25,000.....	198	202	203½
920		263½	269	271
930		316	322½	324½
950		190	193½	195
1030	112½			
1050		159½	162½	164
1080		135½	138	139
1100		159½	162½	164
	From Bridgetown, N.S.....179½			
1110		115	117½	118½
	From Bridgetown, N.S.....137½			
1175	414½			
1310	L.C.L.	263½	269	271
	Minimum 40,000.....C.L.	135½	138	139
1320	L.C.L.	367½	375	377½
	Minimum 30,000.....C.L.	208	212	213½
1330		130½	133	134
1380	Minimum 24,000.....	199	203	204½
	“ 40,000.....	130½	133	134
1390	“ 40,000.....	159½	162½	164
	From Bridgetown, N.S.			
	Minimum 40,000.....179½			
	“ 50,000.....			
	From Bridgetown, N.S.			
	Minimum 50,000.....130½			
1410				
1430				145½
1470	L.C.L.	96	98	98½
	Minimum 24,000.....C.L.	319	325½	328
1530		208	212	213½
	“ 20,000.....	193	196½	198
	“ 25,000.....	198	202	203½
1620	“ 24,000.....	212	216½	218
	“ 30,000.....	188	191½	193
1730		340½	347	349½
1740		111	113½	114
1860		289	294½	296½
1870	Minimum 24,000.....	208	212	213½
	“ 30,000.....	184	187½	189
1960	L.C.L.	417	425½	428½
	Minimum 27,000.....C.L.	215	219½	221
1990		160½	164	165
2000		154½	157½	158½
2010		184	187½	189
2120	L.C.L.	297	303	305
	Minimum 36,000.....C.L.	144½	147	147
2300	“ 50,000.....106			
	“ 80,000.....80			
2520	L.C.L.	367½	375	377½
	Minimum 24,000.....C.L.	214	218½	220
2545		232½	237	237
	From Yarmouth, N.S.....244			

Item		Cents per 100 pounds		
		Groups		
		H	K	L
2546	From Yarmouth, N.S.....	171½	175	175
2815	In boxes, etc.....			
	In bundles.....			
2820	Minimum 50,000.....			
	Glucose, corn sugar, and corn syrup.....	111	113½	114
	Minimum 60,000.....	111	113½	114
	“ 50,000.....			
	Glucose, corn sugar, starch, etc.....	121	123½	124½
2840	.....	92½		

From stations on the Dominion Atlantic Railway one and one-half cents per one hundred pounds to be deducted on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54055

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14.

WEDNESDAY, the 10th day of March, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 755, filed by the Témiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Témiscouata Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 755, approved herein, are as shown below:—

TO		Cents per 100 pounds FROM										
		St. Modeste, Que.	Duval, Que.	Notre Dame du Lac, Que.	Ste. Rose, Que.	Whitworth, Que.	St. Honoré, Que.	Vauban, Que.	St. Louis du Ha Ha, Que.	Cabano, Que.	Edmundston, N.B., to Connors, N.B.	
		Tariff	Normal	Tariff	Normal	Tariff	Normal	Tariff		Normal	Tariff	Normal
Crabtree..... Que.						7	7½	7		8½	5	6½
Cornwall..... Ont.						7	7½	7		8	4	5
Donnacoia..... Que.						7	7½	7		8½	5	6½
Grand Mère..... " "						7	7½	7		8	4½	5½
Georgetown..... Ont.						7	7½	7		8½	5	6½
Hawkesbury..... " "						7	7½	7		8	5	6½
La Tuque..... Que.		5	6½	7	9	7	7½	7		8	4	5
Limoilou..... " "						7	7½	7		9		
Merriton..... Ont.						7	7½	7		8	4½	5½
Ottawa..... " "						7	7½	7		8½	5½	7
Thorold..... " "						7	7½	7		8	4½	5½
Shawinigan Falls..... Que.						7	7½	7		8½	5	6½
Windsor Mills..... " "						7	7½	7		8	4½	5½
Trois Rivières..... " "						7	7½	7		8		

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54063

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2.

THURSDAY, the 11th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 130 of Supplement No. 44 to Tariff C.R.C. No. E-1247, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Dominion Atlantic Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 130 of Supplement No. 44 to Tariff C.R.C. E-1247, approved herein, is—

Item	Cents per 100 pounds	
	Tariff	Normal
130..	5½	6½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54071

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13.

FRIDAY, the 12th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 146 of Supplement No. 10 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 146 of Supplement No. 10 to Tariff C.R.C. No. 1006, approved herein, is the third-class rate in effect prior to July 1, 1927.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54085

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13.

THURSDAY, the 18th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 146 of Supplement No. 10 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 146 of Supplement No. 10 to Tariff C.R.C. No. 1006, approved herein, is the third-class rate in effect prior to July 1, 1927.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54088

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13.

FRIDAY, the 19th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1026, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act be, and they are hereby approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said Company's proportions on traffic destined to Canadian National Railways' points to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls on traffic destined to Canadian National Railways' points, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1026, approved herein, are as follows:—

	Cents per 100 pounds	
	Tariff	Normal
Via Truro, N.S.	6.25	7.8
Via Windsor Junction, N.S.	5.5	6.9

The normal toll to Truro, N.S., is 10 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54089

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12.

FRIDAY, the 19th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 2737A of Supplement No. 12 to Tariff C.R.C. No. E-4797, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 2737A of Supplement No. 12 to Tariff C.R.C. No. E-4797, approved herein, is 20 cents per 100 pounds to Woodstock, New Brunswick.

H. GUTHRIE,
Chief Commissioner.

*Re Demurrage Penalties Assessed by the Canadian Car Demurrage Bureau
under General Orders 201 and 349*

The following tables present in summarized form the reports of the Canadian Car Demurrage Bureau covering car demurrage charges assessed for the year 1936.

NOTE.—First two days over free time \$1 per day, three days or more, \$5 per day.

EASTERN CANADA

1936	Total cars handled	Number released within free time	Per cent	Number held over free time	Per cent	Number held under 3 days over free time	Per cent	Number held 3 days or more over free time	Per cent
January.....	130,050	125,341	96.38	4,709	3.62	4,126	3.17	583	.45
February.....	141,739	136,387	96.22	5,352	3.78	4,769	3.36	583	.41
March.....	140,882	135,634	96.27	5,248	3.73	4,439	3.15	809	.57
April.....	145,307	140,383	96.61	4,924	3.39	4,140	2.85	784	.54
May.....	145,824	140,195	96.14	5,629	3.86	4,625	3.17	1,004	.69
June.....	144,959	139,418	96.18	5,541	3.82	4,594	3.17	947	.65
July.....	145,391	139,977	96.28	5,414	3.72	4,469	3.07	945	.65
August.....	144,572	139,318	96.37	5,254	3.63	4,427	3.06	827	.57
September.....	161,118	155,078	96.25	6,040	3.75	4,969	3.08	1,071	.67
October.....	179,575	172,860	96.26	6,715	3.74	5,687	3.17	1,028	.57
November.....	169,463	163,486	96.47	5,977	3.53	5,069	2.99	908	.54
December.....	164,923	158,402	96.05	6,521	3.95	5,603	3.40	918	.56
TOTAL.....	1,813,803	1,746,479	.....	67,324	.....	56,917	.....	10,407	.....
Monthly Average.....	151,150	145,540	96.29	5,610	3.71	4,743	3.14	867	.57

WESTERN CANADA

January.....	69,794	68,119	97.60	1,675	2.40	1,554	2.23	121	.17
February.....	76,289	74,489	97.64	1,800	2.36	1,636	2.14	164	.22
March.....	76,917	75,256	97.84	1,661	2.16	1,500	1.95	161	.21
April.....	69,105	68,006	98.41	1,099	1.59	1,025	1.48	74	.11
May.....	58,101	55,312	95.20	2,789	4.80	2,700	4.65	89	.15
June.....	59,185	58,072	98.12	1,113	1.88	962	1.63	151	.25
July.....	60,485	59,402	98.21	1,083	1.79	935	1.55	148	.24
August.....	82,378	81,151	98.51	1,227	1.49	1,094	1.33	133	.16
September.....	113,914	111,898	98.23	2,016	1.77	1,818	1.60	198	.17
October.....	124,395	121,683	97.82	2,712	2.18	2,436	1.96	276	.22
November.....	86,982	84,564	97.22	2,418	2.78	2,100	2.41	318	.36
December.....	75,875	74,137	97.71	1,738	2.29	1,593	2.10	145	.19
TOTAL.....	953,420	932,089	.....	21,331	.....	19,353	.....	1,978	.....
Monthly Average.....	79,451	77,674	97.71	1,777	2.29	1,612	2.09	165	.20

OTTAWA, March 24, 1937.

P. F. BAILLARGEON,
Secretary, B.R.C.

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The Board of
Railway Commissioners for Canada

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Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, April 15, 1937

No. 2

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ORDER No. 54100

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 23rd day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 126 of Supplement No. 9 to Tariff C.R.C. No. 986, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said company's proportion to be reported as shown below.
2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 126 of Supplement No. 9 to Tariff C.R.C. No. 986, approved herein, is:—

	Cents per 100 pounds
Billed	17·3
Normal	21·5

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54113

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 27th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in items Nos. 140B and 170E of Supplement No. 9 to Tariff C.R.C. No. E-4645, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 140B and 170E of Supplement No. 9 to Tariff C.R.C. No. E-4645, approved herein, are as follows:—

Item	Cents per 100 pounds
140B To Odell River, N.B.	7½
170E To Clara Belle, Ont.	} 41½
Copper Cliff, Ont.	

One and one-half cents per 100 pounds to be deducted account of water haul on normal rates in item 170E.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54115

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 30th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 38 to Tariff C.R.C. No. E-1504.
 Supplement No. 22 to Tariff C.R.C. No. E-1745.
 Supplement No. 28 to Tariff C.R.C. No. E-1906.
 Supplement No. 41 to Tariff C.R.C. No. E-1911.
 Supplement No. 23 to Tariff C.R.C. No. E-2047.
 Supplement No. 30 to Tariff C.R.C. No. E-2248.
 Supplement No. 12 to Tariff C.R.C. No. E-2444.
 Supplement No. 1 to Tariff C.R.C. No. E-2526.
 Supplement No. 2 to Tariff C.R.C. No. E-2526.
 Tariff C.R.C. No. E-2545.
 Tariff C.R.C. No. E-2551.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54116

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 30th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 36 to Tariff C.R.C. No. E-1258.
 Supplement No. 12 to Tariff C.R.C. No. E-1308.
 Supplement No. 39 to Tariff C.R.C. No. E-1504.
 Supplement No. 40 to Tariff C.R.C. No. E-1829.
 Supplement No. 41 to Tariff C.R.C. No. E-1829.
 Supplement No. 42 to Tariff C.R.C. No. E-1911.
 Supplement No. 13 to Tariff C.R.C. No. E-2444.
 Supplement No. 3 to Tariff C.R.C. No. E-2474.
 Tariff C.R.C. No. E-2558.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54117

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.8

TUESDAY, the 30th day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 58, filed by the Sydney and Louisburg Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 58, approved herein, is 6 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54122

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 31st day of March, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 1027, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1027, approved herein, is 9½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54138

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 2nd day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1029, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1029, approved herein, are as follows:—

To	Cents per 100 pounds	
	Minimum Weight 60,000 lbs.	Minimum Weight 80,000 lbs.
Fort William, Ont.	38	35½
Hamilton, Ont.	33½	31½
Kingston, Ont.	33½	31
London, Ont.	33½	31½
Montreal, Que.	32	26
Ottawa, Ont.	33½	31½
Port Arthur, Ont.	38	35½
Quebec, Que.	30½	27
Toronto, Ont.	34	31½
Trois Rivières, Que.	31½	26½
West Fort William, Ont.	38	35½

One and one-half cents per 100 pounds deducted on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54144

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 3rd day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 57 of Supplement No. 47 to Tariff C.R.C. No. 851, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 57 of Supplement No. 47 to Tariff C.R.C. No. 851, approved herein, are as follows:—

From	Cents per 100 pounds	
	Billed	Normal
Kingston,, N.S.	6·9	8·2
Middleton. N.S.	6·0	7·5

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54145

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 3rd day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 1028, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1028, approved herein, is as follows:—

To	Cents per 100 pounds
Grand Falls, N.B.	22½

One and one-half cents per 100 pounds to be deducted on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54146

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 3rd day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 291 of Supplement No. 10 to Tariff C.R.C. No. 986, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 291 of Supplement No. 10 to Tariff C.R.C. No. 986, approved herein, is:—

	Cents per	100 pounds
Billed		10·2
Normal		12·8

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54147

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 5th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 9 to Tariff C.R.C. No. E-1242.
Supplement 3 to Tariff C.R.C. No. E-2437.
Supplement 14 to Tariff C.R.C. No. E-2444.
Tariff C.R.C. No. E-2560.
Tariff C.R.C. No. E-2562.
Tariff C.R.C. No. E-2564.

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR FEBRUARY, 1937

Railway accidents	164 with 14 killed and 172 injured
Railway accidents at highway crossings.....	18 with 4 killed and 34 injured
	<hr/>
	182 18 206
	<hr/>
	Killed Injured
Passengers	— 28
Employees	8 128
Others	10 50
	<hr/>
	18 206

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

No. of
Accidents

NOVA SCOTIA

- 1 Auto truck—Ran into side of train; driver failed to heed bell and danger signal. Licence N.S. C-14-848.

NEW BRUNSWICK

- 1 Automobile—Driver attempted to beat train. Licence N.B. J-1921.

QUEBEC

- 1 Automobile—Driver stepped on accelerator instead of brake and drove onto crossing in front of train. Licence Que. T-1778 (1936).
- 1 Automobile—Auto ran into side of train. Licence Que. 6597.
- 1 Automobile—Driver failed to stop for crossing; section motor car failed to stop for crossing. Licence Que. T-3415.
- 1 Horse-drawn vehicle—Failed to see train; view obstructed by train on passing track.

ONTARIO

- 2 Automobile—Driver failed to see approaching train and drove onto crossing in front of same. Licences Ont. 85-T-95; Ont. 918-K-1.
- 4 Automobile—Ran into side of train. Licences Ont. 775-K-8; Ont. 8-X-23; Ont. 75-E-9; Michigan 24858.
- 1 Automobile—Driver failed to heed automatic crossing signal. Licence Ont. 439-K-3.
- 2 Auto Truck—Ran into side of train. Licences Ont. 39-960-C; Ont. 52-316-C.
- 1 Pedestrian—Crawled under gates in lowered position and on to track in path of train.

SASKATCHEWAN

- 1 Automobile—Ran into side of train. Licence Sask. 21-580 (1936).

ALBERTA

- 1 Automobile—Driven at high rate of speed, skidded into side of engine. Licence Alta. 32-057 (1936).

Of the 18 accidents at highway crossings, 14 occurred at Unprotected Crossings, and 4 at Protected Crossings. Eleven of the accidents occurred during the daylight hours, and seven at night.

APRIL 2, 1937.

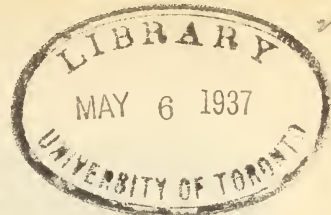
SUMMARY OF ORDERS ISSUED BY THE BOARD OF RAILWAY COMMISSIONERS

- 54031. March 2—Authorizing City of Vancouver, B.C., to construct an overhead crossing over the railway of the Vancouver, Victoria & Eastern Railway & Navigation Co., being an extension of First avenue.
- 54032. March 1—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54033. March 1—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Co., under sec. 9.
- 54034. March 3—Authorizing Dept. of Public Works, Alberta, to construct highway crossing over Northern Alberta Railways between the NE $\frac{1}{4}$, sec. 1, and SE $\frac{1}{4}$ of sec. 12, 66, 2, W5thM., Alberta.
- 54035. March 4—Declaring C.N.R. crossing of Richmond road, mileage 8.4, Renfrew subdivision, Province of Ontario, protected to satisfaction of the Board.
- 54036. March 4—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Canadian Pacific Railway Co. under sec. 9.
- 54037. March 4—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Canadian Pacific Railway Co. under sec. 9.
- 54038. March 4—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Canadian Pacific Railway Co. under sec. 9.
- 54039. March 4—Authorizing Dept. of Public Works, British Columbia, to construct highway crossing over the Esquimalt & Nanaimo Railway at mileage 104.56, Victoria subdivision.
- 54040. March 4—Approving the clearances at the C.N.R. spur serving the Consolidated Paper Corp., Ltd., at St. Casimir, Que.
- 54041. March 6—Declaring the C.P.R. crossing, second public crossing east of Tilbury station, Ont., protected to satisfaction of the Board.
- 54042. March 5—Authorizing the C.N.R. to remove the station building at Myrtle, Ontario.
- 54043. March 5—Authorizing the Municipality of the Parish of Sayabec, County of Matapedia, Quebec, to construct crossing over the C.N.R. on Pouliot road.
- 54044. March 6—Declaring the C.N.R. crossing one-quarter of a mile west of Merigomish station, N.S., protected to satisfaction of the Board.
- 54045. March 6—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Canadian Pacific Railway Co. under sec. 9.
- 54046. March 9—Authorizing the closing of C.N.R. crossing at Cummane St., Truro, N.S., and the diversion of traffic southeasterly along Prince St. and thence along Cottage St. to Brunswick St.
- 54047. March 9—Relieving the C.N.R. from maintaining speed restriction of ten miles an hour over Wellington St. crossing, Aurora, Ont., with respect to trains Nos. 3 and 47, which shall be protected by flag.
- 54048. March 9—Approving traffic agreement between the Bell Telephone Co. and Sprague Telephone System.
- 54049. March 9—Declaring the crossing of Ontario road, Township of Crowland, Ontario, protected to satisfaction of the Board.
- 54050. March 5—Declaring C.N.R. crossing of Caradoc St., Township of Caradoc, County Middlesex, satisfactorily protected so long as speed limitation of ten miles an hour is in effect, etc.
- 54051. March 9—Declaring the C.P.R. crossing, Calgary, Alta., mileage 4.9, Red Deer subdivision, protected to the satisfaction of the Board.
- 54052. March 10—Approving the agreement between the Bell Telephone Co. and Dept. of Mines and Resources covering connection at Chalk River toll office.
- 54053. March 9—Extending time for construction of branch line to serve Greater Winnipeg Sanitary District.
- 54054. March 9—Authorizing the Rural Municipality of Lakeview No. 337, Saskatchewan, to construct highway crossing over C.P.R. in sec. 20, 36, 13, W2ndM., Saskatchewan.
- 54055. March 10—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Co. under sec. 9.
- 54056. March 8—Relieving the C.N.R. from maintaining fences along their Sydney subdivision at certain points.
- 54057. March 8—Relieving the C.N.R. from maintaining fences along their Chester subdivision at certain points.
- 54058. March 10—Amending Order No. 53630 by striking out the figures "\$700," in the fourth line of paragraph 2 thereof, and substituting therefor the figures \$1,135.40.
- 54059. March 10—Authorizing the City of Winnipeg to construct a 13,000-volt power transmission line along and upon a portion of Raleigh St., and the Municipal road in the Municipality of East Kildonan, near the communication wires of the C.P.R.

- 54060. March 8—Authorizing the C.P.R. to construct a branch line and three spurs as relocated, to serve the High Test Lignite Coal Co., Ltd., in the NE $\frac{1}{4}$ of sec. 23, 2, 7, W2M., Saskatchewan.
- 54061. March 10—Relieving the C.N.R. from maintaining fences at certain points on their Centreville subdivision.
- 54062. March 11—Declaring the C.P.R. crossing at mileage 8·66, Bobcaygeon subdivision, protected to Board's satisfaction.
- 54063. March 11—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the C.N.R. under sec. 3.
- 54064. March 8—Relieving the C.N.R. from maintaining fences between mileage 106·2 and 106·7, Chipman subdivision, west side.
- 54065. March 11—Authorizing the C.N.R. to discontinue the flag station at Crookston, Ontario, as a stopping place.
- 54066. March 11—Extending the time within which the C.P.R. branch lines at Manitoba penitentiary may be completed.
- 54067. March 11—Authorizing the C.N.R. to operate their trains over the subway carrying Highway No. 12, as diverted, under the railway near mileage 72·6, Midland subdivision, Ontario.
- 54068. March 11—Authorizing the C.N.R. to construct spur to serve Libby, McNeill & Libby of Canada, Ltd., Chatham, Ont., across Currie St. (unopened).
- 54069. March 10—Authorizing the City of Fort William to construct a temporary street railway single track 102 feet west of the present crossing of the C.P.R. at James St., pending construction of James St. subway.
- 54070. March 11—Declaring the crossing of St. Albert St., by the C.P.R., near Drummondville Station, Que., protected to the Board's satisfaction.
- 54071. March 12—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54072. March 12—Approving traffic agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone de Kamouraska.
- 54073. March 13—Approving traffic agreement between the Bell Telephone Company of Canada and the Metcalfe Rural Telephone Company, Ltd.
- 54074. March 13—Approving traffic agreement between the Bell Telephone Company of Canada and La Compagnie de Telephone d'Yamaska Limitee.
- 54075. Feb. 11—Authorizing the City of Montreal to widen St. Henry Place crossing over the C.N.R., and to make certain alterations in the gates and tracks thereat, etc.
- 54076. March 13—Requiring the C.N.R. to install double bells and wigwags at crossing of Grafton St., Charlottetown, P.E.I.
- 54077. March 16—Authorizing the C.N.R. to construct spur to serve the Continental Can Co. of Canada, Ltd., across Park avenue, St. Laurent, Que.
- 54078. March 13—Authorizing the C.N.R. to install, at their own expense, proposed new signal layout at l'Epiphanie, Que.
- 54079. March 15—Refusing the application of the C.N.R. for authority to remove the station agent at Ernestown, Ontario.
- 54080. March 15—Authorizing the C.N.R. to reconstruct the bridge over the Saint John river, Fredericton, N.B.
- 54081. March 16—Requiring the C.P.R. to replace the existing 10 ft. by 10 ft. culverts at certain mileages, Quebec subdivision, with 12 ft. by 12 ft. culverts.
- 54082. March 16—Requiring the Dept. of Highways for Nova Scotia to reconstruct the approaches to the Shore Road crossing by the C.N.R. south of Port Hood, N.S.
- 54083. March 16—Declaring the C.P.R. crossing first west of Belle River station, Ontario, protected to the Board's satisfaction.
- 54084. March 18—Authorizing the Dept. of Roads for the Province of Quebec to reconstruct the subway on Highway No. 5 crossing the C.P.R. between Sherbrooke and Lennoxville, Que.
- 54085. March 18—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54086. March 18—Authorizing the Dept. of Highways for the Province of Ontario to construct and revise existing crossing at mileage 53·72, Alderdale subdivision, C.N.R., and to relocate bell and wigwag.
- 54087. March 18—Requiring the Quebec Central Railway Company to install an automatic bell and wigwag at the third crossing of the highway south of Thetford Mines, Que.
- 54088. March 19—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, tolls filed by the Dominion Atlantic Railway Company under sec. 9.
- 54089. March 19—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the C.P.R. under sec. 9.
- 54090. March 19—Declaring the C.P.R. crossing 1·61 miles west of Burritts station, Ontario, protected to the Board's satisfaction.

- 54091. March 19—Amending Order No. 53844 by adding paragraph relieving the C.P.R. from maintaining cattle guards at crossing 400 ft. east of Hurkett station, Ont.
- 54092. March 19—Declaring the crossing of Elm street by the London & Port Stanley Railway, in the city of St. Thomas, Ont., protected to the Board's satisfaction so long as present speed limitation of ten miles an hour is in effect.
- 54093. March 20—Authorizing the Dept. of Highways for the Province of Ontario to construct a highway crossing at grade level over the C.N.R. in Lot 1, Con. 1, Township of Sterling, District of Thunder Bay, Ont.
- 54094. March 19—Approving plan showing proposed automatic signal protection at crossing of the C.N.R. by the C.P.R., mileage 25.6 Cornwall subdivision (C.P.R.), near Cornwall, Ont.
- 54095. March 20—Authorizing the C.P.R. to reconstruct bridge No. 73-62, St. John subdivision, over the Magaguadavic river, N.B.
- 54096. March 2—Approving traffic agreement between the Bell Telephone Company and La Compagnie de Téléphone de Charlevoix & Saguenay.
- 54097. March 20—Authorizing the British Columbia Electric Railway Co., Ltd., to remove the bell and wigwag at present installed at the crossing of Victoria drive, Vancouver, B.C.
- 54098. March 22—Authorizing the Dept. of Highways for Province of Ontario to construct and maintain a crossing at grade level over tracks of C.P.R. at mileage 68.49 Thessalon subdivision, just east of Eley station, Ont.
- 54099. March 22—Declaring the crossing of Glasgow street by the Grand River Railway, Kitchener, Ont., protected to Board's satisfaction so long as speed limitation of ten miles an hour is in effect.
- 54100. March 23—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54101. March 23—Authorizing the C.N.R. to use and operate the trestle on lot No. 160, Cowichan Bay, Vancouver Island, B.C.
- 54102. March 24—Authorizing the C.N.R. to use and operate timber bridge over the diversion of the east and west road allowance between sec. 35, 23, 1, W5M., and sec. 2, 24, 1, W5M., Calgary, Alta.
- 54103. March 24—Authorizing the Essex Terminal Railway Co. and the Ford Motor Company to construct a subway, service tunnel, etc., under the right of way of the railway in Windsor, Ont.
- 54104. March 30—Authorizing the C.P.R. to close certain crossings on its Bassano subdivision, province of Alberta.
- 54105. March 24—Approving certain signal appliances for use on the cars of the Grand River & Lake Erie & Northern Railway companies.
- 54106. March 24—Authorizing the C.P.R. to close certain crossings on its Bassano subdivision, Alberta.
- 54107. March 24—Authorizing the C.P.R. to close certain crossings on its Brooks subdivision, Alberta.
- 54108. March 24—Authorizing the C.P.R. to close certain crossings on its Maple Creek subdivision, Saskatchewan.
- 54109. March 25—Declaring the C.P.R. crossing of Eighteenth St., Brandon, Manitoba, protected to the Board's satisfaction.
- 54110. March 25—Authorizing the C.N.R. to install an automatic bell and wigwag at the crossing of the highway at mileage 0.63, Georgetown subdivision, Mount Stewart, P.E.I.
- 54111. March 25—Authorizing the C.P.R. to remove certain derails at the interlocking plant installed at the crossing of the C.N.R. at Hamilton Junction, Ontario.
- 54112. March 25—Authorizing the C.P.R. to install double bells and wigwags at the first highway crossing west of Deroche, B.C.
- 54113. March 27—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, tolls filed by the C.P.R. under sec. 9.
- 54114. March 27—Extending the time within which the C.P.R. may construct branch line to serve Dominion Coal and Wood, Ltd., at Islington, Ont.
- 54115. March 30—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls filed by the C.N.R. under sec. 3.
- 54116. March 30—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls filed by the C.N.R. under sec. 3.
- 54117. March 30—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the Sydney and Louisburg Railway Co. under sec. 9.
- 54118. March 30—Authorizing the C.P.R. to close certain crossings on its Suffield subdivision, Alberta.
- 54119. March 30—Declaring the C.N.R. crossing first north of Babbitt's Siding, N.B., protected to the Board's satisfaction.

- 54120. March 31—Approving traffic agreement made between the Bell Telephone Company and the Wroxeter Telephone Co.
- 54121. March 31—Declaring the C.N.R. crossing third west of station at Liverpool, N.S., protected to the Board's satisfaction.
- 54122. March 31—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll filed by the Dominion Atlantic Railway Co. under section 9.
- 54123. March 31—Declaring the C.N.R. crossing one mile east of Belmont, N.S., protected to the Board's satisfaction.
- 54124. March 31—Declaring the C.N.R. crossing one mile east of Goderich, Ont., protected to the Board's satisfaction.
- 54125. March 31—Declaring the C.N.R. crossing first west of Liverpool Station, N.S., protected to Board's satisfaction, providing the present speed restriction of ten miles an hour is in effect.
- 54126. March 31—Approving traffic agreement between the Bell Telephone Co. and La Compagnie de Téléphone de Ste. Cecile de Whittou.
- 54127. March 31—Approving traffic agreement between the Bell Telephone Co. and La Compagnie Canadienne de Telephone.
- 54128. March 31—Approving traffic agreement between the Bell Telephone Co. and La Compagnie Téléphone de St. Hubert de Spaulding.
- 54129. March 31—Approving traffic agreement between the Bell Telephone Co. and La Compagnie de Téléphone Locale de Disraeli.
- 54130. April 1—Declaring the C.P.R. crossing, second public crossing east of Innerkip, Ont., protected to the Board's satisfaction.
- 54131. April 1—Declaring the C.N.R. crossing, first public crossing east of L'Islet Station, Que., protected to the Board's satisfaction.
- 54132. April 1—Authorizing the C.N.R. to discontinue the flag station at Kingscourt, Ont., as a stopping place, and to remove shelter.
- 54133. April 1—Authorizing the C.N.R. to remove station agent at Brysons, Quebec, subject to the condition that a caretaker be appointed.
- 54134. April 1—Approving plan and profile No. 380/1774 in lieu of plan and profile approved under Order No. 40536, in connection with crossing over the C.N.R. on the line of the surveyed road in the SW $\frac{1}{4}$ of sec. 13, 51, 21, W3M.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, May 1, 1937

No. 3

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Application of the Minister of Roads for the Province of Quebec, for a grant from the Railway Grade Crossing Fund and other funds available under votes of Parliament for works to be done in connection with the closing of three level crossings of the Canadian Pacific Railway on the Trans-Canada Highway, Route No. 2, between Quebec and Montreal, at points shown as 4, 6, and 8 on a plan of the Department of Roads, Province of Quebec, signed by E. Dubuc and dated March, 1936, and greater protection, safety and convenience of the public at seven other level crossings marked 1, 2, 3, 5, 7, 9, and 10, and the diversion of the said Trans-Canada Highway as shown on the said plan.

File No. 11026.57.3

JUDGMENT

GUTHRIE, Chief Commissioner:

This application was heard in the city of Quebec on 11th day of January, 1937, in the presence of representatives of the Department of Roads for the Province of Quebec and of the Canadian Pacific Railway Company. The present application involves a reconsideration of the action heretofore taken by the Board in respect of nine level railway crossings upon the road known as the Trans-Canada Highway, Route No. 2, between the cities of Montreal and Quebec. The particular section of Route No. 2, where these railway crossings are located, covers a distance of 30 miles, as shown in red upon the plan filed with the application between the points marked "A" and "B."

By Order of the Board dated November 16, 1936, the Canadian Pacific Railway Company was ordered to install double bells and wigwags at each of the above nine railway crossings upon the said highway, at the points specifically set out in the said order, which order was previously approved by the Governor in Council by Order in Council, P.C. No. 2878, dated November 12, 1936, and under the provisions of the said Order 70 per cent of the cost of these nine installations of bells and wigwags was to be paid from the amount appropriated for railway grade crossings under the Department of Railways and Canals Vote No. 417, Special Supplementary Estimates 1936-37; 15 per cent of the cost was to be paid by the Department of Roads of the Province of Quebec, and the balance of the cost was to be paid by the Canadian Pacific Railway Company.

Subsequent to the passage of the said order, the Department of Roads of the Province of Quebec submitted a revised proposal in regard to the improvement of the said grade crossings, and on December 4, 1936, filed the present application with the Board for the diversion of about 30 miles of the Trans-Canada Highway between Ste. Genevieve de Berthier and Pointe du Lac, which would result in the closing of the railway crossings at points 4, 6, and 8 upon the said plan, and would eliminate the greater portion of the traffic which now passes over railway crossings 1, 2, 3, 5, 7, 9, and 10, as shown upon the plan.

The estimated cost of this diversion of the highway between Ste. Genevieve de Berthier and Pointe du Lac is \$1,023,850, and in addition to this there is an estimated expenditure of \$97,250 for land purchases and expropriations. The estimated cost of the elimination and closing of the crossings shown at points 4, 6, and 8, upon the said plan, without any allowance for land damage or expropriation, is \$401,470, and the applicant asks for a contribution of \$500,000 upon the ground that the proposed diversion will absolutely close three level crossings and reduce the traffic over seven level crossings to a very large extent.

The highway in question constitutes part of the Trans-Canada Highway, and Route No. 2 forms part of the main travelled highway between Montreal and Quebec and carries, perhaps, the heaviest and densest road traffic in the province. Between Ste. Genevieve and Pointe du Lac, the present highway runs practically parallel to the Canadian Pacific Railway tracks. At some points the distance between the highway and the railway is from 2 to 3 miles, but for the greater portion of the whole distance the railway and the highway run very close together. Many of the ten railway crossings above mentioned may well be classed as dangerous crossings, and a large number of accidents have occurred at these crossings during past years. The record for the last ten years in respect of accidents at these various crossings, which has been filed with the Board, is as follows:—

Crossing No.		Accidents	Killed	Injured
1	.. .. .	2	..	4
2	.. .. .	2	1	4
3	.. .. .	2	..	3
4	.. .. .	1	22	8
5	.. .. .	2	1	7
6	.. .. .	nil		
7	.. .. .	1	1	
8	.. .. .	2	2	1
9	.. .. .	3	6	1
10	.. .. .	nil		
Total	.. .. .	15	33	28

The proposed diversion of Route No. 2 is shown by the yellow line upon the plan filed, and it is represented by the applicant that, if this diversion of the highway takes place and if railway crossings 4, 6, and 8 are closed, there will be very little traffic in the future over the remaining 7 crossings, as a diversion of the highway would carry practically the whole traffic to the south side of the railway. It was also represented by applicant that there was urgent need of unemployment relief work in the immediate locality and that the authorization of this project would greatly relieve the present unemployment situation.

The Department of Roads of the Province of Quebec is most anxious to proceed with the whole scheme as soon as reasonably possible, and it asks a contribution of approximately one-half of the whole cost of the work. As pointed out above, the estimated cost of the diversion of the highway and the closing of crossings 4, 6, and 8 is the sum of \$401,470, and I think the Board might authorize the expenditure of this amount in respect of the diversion of the highway and the closing of these three crossings, but only upon condition that the Department of Roads will be prepared to undertake the whole work at the estimated cost of \$1,121,100, as set out in the application. Upon the basis of population the share of the province of Quebec in the grant made by parliamentary vote No. 417 in 1935 would be \$279,200, and the expendi-

ture authorized under this vote in the Province of Quebec amounted to, approximately, \$200,000. Out of parliamentary vote No. 420 of last session, the share of the province of Quebec upon the basis of population would be \$279,200, and up to the present time commitments have been made for works in the said province up to, approximately, \$81,000, under the said vote No. 420. It appears, therefore, that there is still a substantial balance under the said votes which may be appropriated to the project involved in the present application without interference with the scheme of expenditures as between provinces above mentioned. As crossings Nos. 4, 6, and 8 were in existence as grade railway crossings before the 1st day of April, 1909, I think that a grant might also be made from the Railway Grade Crossing Fund for the closing and elimination of crossings Nos. 4, 6, and 8, and the necessary highway diversion in respect thereof, so that from both of these funds the necessary amount might be contributed to make up the sum of \$401,470.

Since the matter was heard in Quebec and since full consideration has been given to the whole proposal, a communication was sent to the Minister of Roads of the Province of Quebec suggesting that a contribution as above might be made from the moneys available for railway grade crossings, provided the province of Quebec would proceed with the whole project as outlined above. A communication has now been received by the Board stating that the Minister of Roads will officially accept the terms and conditions mentioned in the letter of the Board, and counsel for the province of Quebec has forwarded to the Board a formal letter agreeing to accept the said contribution upon the terms and conditions above set out.

In my opinion, this project is of sufficient importance to call for a substantial contribution from the funds available for grade crossing protection. There can be no doubt that the above highway is one of the most important in Canada and carries an enormous amount of traffic. I think an Order should be made to authorize the Department of Roads of the province of Quebec to construct the diversion on the south side of the Canadian Pacific Railway extending from the east side of crossing No. 3 in the Municipality of Riviere du Loup West and through the municipalities of Louiseville, Riviere du Loup East, Ste. Anne de Yamachiche West, Village de Yamachiche, and Ste. Anne de Yamachiche, to the east side of crossing No. 8, a distance of approximately 10 miles, and to close the existing level crossings over the Canadian Pacific Railway, marked No. 4 Mileage 61.02, No. 6 Mileage 66.06, and No. 8 Mileage 69.31, all in the Three Rivers Subdivision, Canadian Pacific Railway; subject to such reasonable conditions and stipulations as to payments, labour and other incidental matters as may be specified in the Order to be made herein and to be approved by the Governor-in-Council.

As the above work will close three otherwise dangerous crossings which are now maintained by the Canadian Pacific Railway Company, I think the railway company should be asked to contribute the sum of \$6,000, or at the rate of \$2,000 for each crossing. Seventy-five per cent of the remainder of the cost not exceeding, however, the sum of \$296,602.50, should be paid from the funds available under vote No. 420, Special Supplementary Estimates 1936-37 and, in addition thereto, that 25 per cent of the cost not exceeding the sum of \$98,867.50 be paid out of the Railway Grade Crossing Fund. This would make up the total amount of \$401,470, which is the estimated cost in connection with the diversions in respect of crossings Nos. 4, 6, and 8, which are to be permanently closed.

The order heretofore made by the Board for the protection of the above crossings by bells and wigwags should now be superseded and set aside.

OTTAWA, February 23, 1937.

The Assistant Chief Commissioner and the Deputy Chief Commissioner concurred.

(TRADUCTION)

Requête du Ministre de la Voirie de la province de Québec demandant une contribution à même la Caisse des Passages à niveau des chemins de fer et autres fonds disponibles votés par le Parlement pour des travaux devant être exécutés en rapport avec la suppression de trois passages à niveau du chemin de fer Pacifique-Canadien sur la route Trans-Canada, route N° 2, entre Québec et Montréal, aux endroits marqués 4, 6 et 8 sur un plan du ministère de la Voirie, province de Québec, signé par E. Dubuc et daté du mois de mars 1936, et pour assurer au public plus de protection, de sécurité et de commodité à sept autres passages à niveau aux endroits marqués 1, 2, 3, 5, 7, 9 et 10 sur le plan, et pour le détournement de ladite route Trans-Canada, tel qu'indiqué sur ledit plan.

(Dossier N° 11026.57.3)

GUTHRIE, Commissaire en chef:—

JUGEMENT

Cette requête fut entendue à Québec, le 11 janvier 1937, en présence de représentants du ministère de la voirie de la province de Québec et de la compagnie du chemin de fer Canadien du Pacifique. La présente requête comporte la reconsidération de l'attitude qui a été prise par la Commission relativement à neuf passages à niveau situés sur la route connue sous le nom de route Trans-Canada, route N° 2, entre les cités de Montréal et de Québec. La section particulière de la route N° 2 où se trouvent ces passages à niveau couvre une distance de 30 milles, telle qu'indiquée en rouge sur le plan produit avec la requête entre les endroits marqués "A" et "B".

Par une ordonnance de la Commission en date du 16 novembre 1936, il fut ordonné à la compagnie du chemin de fer Canadien du Pacifique d'installer des sonneries doubles et des pendules-avertisseurs à chacun des neuf passages à niveau mentionnés ci-dessus aux endroits spécifiés dans ladite ordonnance, laquelle avait été antérieurement approuvée par le Gouverneur-en-conseil par l'arrêté ministériel C.P. N° 2878 daté du 12 novembre 1936, et, en vertu des dispositions de ladite ordonnance, soixante-dix pour cent du coût de ces neuf installations devait être payé à même le montant approprié relativement aux passages à niveau en vertu du vote de subsides N° 417 du ministère des Chemins de fer et Canaux, estimés supplémentaires spéciaux de 1936-37; quinze pour cent dudit coût devait être payé par le ministère de la Voirie de la province de Québec, et la balance par la compagnie du chemin de fer Canadien du Pacifique.

A la suite de cette ordonnance, le ministère de la Voirie de la province de Québec soumit un projet révisé relativement à l'amélioration desdits passages, et le 4 décembre 1936 produisit à la Commission la présente requête concernant le détournement d'environ 30 milles de la route Trans-Canada entre Sainte-Geneviève de Berthier et Pointe-du-Lac, dont le résultat serait de fermer les passages à niveau aux endroits marqués 4, 6 et 8 sur ledit plan et d'éliminer la plus grande partie du trafic qui passe actuellement sur les passages 1, 2, 3, 5, 7, 9 et 10, tels qu'indiqués sur le plan.

On évalue le coût de ce détournement de la route entre Sainte-Geneviève de Berthier et Pointe-du-Lac à \$1,023,850, et en plus de ce montant, il y a une dépense qu'on évalue à \$97,250 pour achat de terrains et expropriations. On évalue le coût de suppression des passages aux endroits marqués 4, 6 et 8 sur ledit plan, sans allouer aucun montant pour dommages à la propriété ou expropriations, à la somme de \$401,470, et le requérant demande une contribution de \$500,000 pour la raison que le détournement projeté éliminera complètement trois passages à niveau et réduira considérablement la circulation sur sept passages.

La route dont il s'agit constitue une section de la route Trans-Canada, et la route N° 2 fait partie de la route principale entre Montréal et Québec, où le trafic est peut-être le plus considérable dans la province. Entre Sainte-Geneviève et Pointe-du-Lac, le chemin actuel est pour ainsi dire parallèle à la ligne du chemin de fer Pacifique-Canadien.

À certains endroits, la distance entre la route et le chemin de fer est de 2 à 3 milles, mais pour la majeure partie de toute la distance, le chemin de fer et la route se suivent de très près. Plusieurs des dix passages à niveau ci-dessus mentionnés peuvent très bien être considérés comme étant des passages dangereux, et de nombreux accidents s'y sont produits dans le passé. Les relevés pour les dix dernières années relativement aux accidents survenus à ces divers passages, lesquels ont été produits à la Commission, sont comme suit:—

	Passages à niveau	Accidents	Tués	Blessés
N° 1	2		4
2	2	1	4
3	2		3
4	1	22	8
5	2	1	7
6	Nil		
7	1	1	
8	2	2	1
9	3	6	1
10	Nil		
Total	15	33	28

Le détournement projeté de la route N° 2 est indiqué en jaune sur le plan produit, et le requérant laisse entendre que si ce détournement de la route est mis à exécution et que les passages à niveau 4, 6 et 8 sont fermés, il y aura très peu de circulation à l'avenir sur les sept autres passages, attendu qu'un tel détournement dirigerait pour ainsi dire toute la circulation du côté sud du chemin de fer. Le requérant a aussi représenté qu'il y avait un besoin urgent de travaux de secours au chômage dans le voisinage immédiat et que ce projet, si on l'autorise, remédierait considérablement à la présente situation du chômage.

Le ministère de la Voirie de la province de Québec est des plus anxieux de procéder avec ce projet en entier aussitôt qu'il sera raisonnablement possible, et il demande une contribution d'à peu près la moitié du coût total des travaux. Tel que signalé plus haut, l'évaluation du coût du détournement de la route et de la fermeture des passages à niveau 4, 6 et 8 s'établit par la somme de \$401,470, et je crois que la Commission pourrait autoriser la dépense de ce montant par rapport au détournement de la route et à la fermeture de ces trois passages, mais à la condition seulement que le ministère de la Voirie soit prêt à entreprendre l'ouvrage en entier au coût évalué à \$1,121,000, tel qu'exposé dans la requête.

Basée sur la population, la part de la province de Québec dans la subvention autorisée par le Parlement, en 1935, par le vote de subsides N° 417, serait de \$279,200, et la dépense autorisée en vertu de ce vote dans la province de Québec s'est élevée à environ \$200,000. Sur le vote de subsides N° 420 adopté par le Parlement à la dernière session, la part de la province de Québec basée sur sa population serait de \$279,200, et à venir jusqu'à présent, des sommes d'argent ont été engagées pour l'exécution de travaux dans ladite province jusqu'à concurrence d'environ \$81,000 en vertu dudit vote de subsides N° 420. Il appert par conséquent qu'il reste encore une balance assez considérable en vertu desdits votes de subsides qui peut être appropriée au projet impliqué dans la présente requête sans nuire à la méthode ci-dessus mentionnée quant à la répartition des fonds entre les diverses provinces. Vu que les passages N°s 4, 6 et 8 étaient en existence comme passages à niveau de chemin de fer avant le 1er avril 1909, je crois qu'on pourrait aussi accorder une subvention à même la Caisse des passages à niveau pour la suppression desdits passages, et pour le détournement de la route requis à leur sujet de façon à ce qu'à même ces deux sources de fonds le montant nécessaire soit fourni pour former la somme de \$401,470.

Depuis que l'affaire a été entendue à Québec et que pleine et entière considération a été accordée à l'ensemble du projet, une lettre fut adressée au ministre de la Voirie de la province de Québec, suggérant qu'une contribution comme ci-dessus mentionnée pourrait être accordée à même les argents disponibles relativement aux passages à niveau, pourvu que la province de Québec procédât avec le projet en entier tel que défini ci-dessus. La Commission a maintenant au dossier une communication l'informant que le ministre de Voirie acceptera officiellement les termes et conditions mentionnés dans la lettre de la Commission, et l'avocat-conseil de la province de Québec a fait parvenir à la Commission une lettre formelle à l'effet qu'on acceptait ladite contribution aux termes et conditions exposés ci-dessus.

A mon avis, ce projet est assez important pour justifier une contribution substantielle à même les fonds disponibles relativement à la protection des passages à niveau. Il ne peut y avoir de doute que la route ci-dessus est une des plus importantes au Canada et qu'il y passe un trafic très considérable. Je crois qu'une ordonnance devrait être rendue autorisant le ministère de la Voirie de la province de Québec à construire le détournement du côté sud du chemin de fer Pacifique-Canadien, s'étendant à partir du côté est du passage N° 3 situé dans la municipalité de Rivière-du-Loup-Ouest et à travers les municipalités de Louiseville, Rivière-du-Loup-Est, Ste-Anne d'Yamachiche-Ouest, Village d'Yamachiche et de Ste-Anne d'Yamachiche, jusqu'au côté est du passage N° 8, soit une distance d'à peu près 10 milles, et à fermer les passages à niveau actuels sur la ligne du chemin de fer Pacifique-Canadien marqués N° 4, au mille 61.02, N° 6, au mille 66.06, et N° 8, au mille 69.31, tous compris dans la subdivision de Trois-Rivières du chemin de fer Pacifique-Canadien, le tout est sujet à telles conditions raisonnables et stipulations quant aux paiements, à la main-d'œuvre et autres questions incidentes qui peuvent être déterminées dans l'ordonnance qui doit être rendue en cette affaire et approuvée par le Gouverneur en son Conseil.

Vu que les travaux ci-dessus devront supprimer trois passages à niveau plutôt dangereux qui sont actuellement entretenus par la compagnie du chemin de fer Canadien du Pacifique, je crois qu'on devrait demander à la compagnie de chemin de fer de contribuer pour la somme de \$6,000, ou à raison de \$2,000 pour chaque passage; que soixante-quinze pour cent de la balance du coût des travaux n'excédant pas toutefois la somme de \$296,602.50 devrait être payé à même les fonds disponibles en vertu du vote de subsides N° 420, estimés supplémentaires spéciaux de 1936-37, et qu'en plus de ce montant, vingt-cinq pour cent dudit coût n'excédant pas la somme de \$98,867.50 devrait l'être à même la Caisse des Passages à niveau. Ceci formerait le montant total de \$401,470 qui est le coût évalué des travaux en rapport avec le détournement relatif aux passages à niveau N°s 4, 6 et 8 qui devront être fermés en permanence.

L'ordonnance déjà rendue par la Commission relativement à la protection des passages ci-dessus au moyen de sonneries et de pendules-avertisseurs devrait être maintenant annulée et mise de côté.

OTTAWA, le 23 février 1937.

Le Commissaire en chef adjoint et le Commissaire en chef suppléant se sont ralliés au jugement ci-dessus.

ORDER No. 54157

In the matter of the application of the Department of Roads for the Province of Quebec, hereinafter called the "Applicant," under Section 257 of the Railway Act, for approval of a diversion of the Trans-Canada Highway between Berthier and Pointe du Lac and the closing of three crossings of the Canadian Pacific Railway, as shown on the plan dated March, 1936, on file with the Board under file No. 11026.57.3; and for a contribution toward the cost of the said work from the Parliamentary Vote, 1936.

File No. 11026.57.3

SATURDAY, the 10th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*
F. N. GARCEAU, *Deputy Chief Commissioner.*

Upon hearing the application at the sittings of the Board held at Quebec, January 11, 1937, in the presence of counsel for the applicant and the railway company, and what was alleged; and upon the consent filed by the applicant to furnish the remainder of the money necessary to carry out the whole diversion project after a contribution of one hundred per cent is made by the Board in respect of crossings Nos: 4, 6 and 8,—

It is ordered:

1. That the applicant be, and it is hereby, authorized to construct a diversion of the Trans-Canada Highway on the south side of the Canadian Pacific Railway, extending from the east side of crossing No. 3 in the municipality of Riviere du Loup West and through the municipalities of Louiseville, Riviere du Loup East, Ste. Anne de Yamachiche West, Village de Yamachiche, and Ste. Anne de Yamachiche, to the east side of crossing No. 8, a distance of approximately ten miles; and to close the existing level crossings over the Canadian Pacific Railway marked No. 4 at mileage 61.02, No. 6 at mileage 66.06, and No. 8 at mileage 69.31, all on the Three Rivers Subdivision of the Canadian Pacific Railway Company, subject to and upon the condition that the province of Quebec, acting through the applicant, shall immediately proceed to complete, at its own expense, the remaining portion of the diversion of Highway No. 2 between Ste. Genevieve de Berthier and Pointe du Lac, for the whole distance of thirty miles, all as shown in yellow and indicated between the letters "A" and "B" on the said plan on file with the Board under file No. 11026.57.3.

2. That the Canadian Pacific Railway Company pay the sum of \$6,000 toward the cost of eliminating the said crossings.

3. That, with the approval of the Governor in Council by Order in Council P.C. 510, dated March 18, 1937, as amended by Order in Council P.C. 707, dated April 7, 1937, seventy-five per cent of the remainder of such cost, not exceeding, however, the sum of \$296,602.50, be paid out of the fund appropriated for the purpose under Department of Railways and Canals Vote No. 420, Special Supplementary Estimates 1936-37; and that in addition thereto twenty-five per cent of such cost, not exceeding the sum of \$98,867.50, be paid out of the Railway Grade Crossing Fund.

4. That the said contribution of seventy-five per cent, not exceeding in the whole \$296,602.50 of the cost, less the said sum of \$6,000, of eliminating the said crossings as approved by the Governor in Council as aforesaid, shall be paid by instalments on the completion of each two and one-half-mile section of the work herein authorized between the points marked 3 and 8 upon the said plan, and of each five-mile section of the said remaining portion of highway No. 2

between Ste. Genevieve de Berthier and Pointe du Lac between the points marked "A" and "B" and coloured yellow upon the said plan, upon the certificate of the Chief Engineer of the Board.

5. That any expenditure in excess of the above amounts shall be paid by the applicant.

6. That not less than fifty per cent of the persons employed in the execution of the works herein authorized shall be employed from relief rolls, and the remainder of the persons employed, other than the necessary key-men, shall be taken from the unemployed in the district, it being understood and agreed that in the selection of labour from relief rolls and from among the unemployed of the district there shall be no discrimination practised or favouritism shown with respect to the religious views or political affiliations of the candidates for employment, and in the event of dispute arising with respect to the employment of labour for the work in question the Minister of Labour may designate a representative whose duty and responsibility it shall be to see that the terms of the agreement as above proposed are carried out, and in any such dispute the decision shall lie with the Minister of Labour.

7. That the Order of the Board No. 53697, dated November 16, 1936, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,
Chief Commissioner.

Application of Ernest Lauzon, of Pointe Claire, Que., under section 273 of the Railway Act, for an Order directing the Canadian Pacific Railway Company and the Canadian National Railways to re-establish, at their own expense, the farm crossing on original Lot 13 of Official Cadastre of the Parish of Pointe Claire, at Beurepaire, in the Town of Beaconsfield, Que., and to bear the cost of maintenance thereof.

File No. 33993.9

Heard before the Board at Montreal, Que., on Tuesday, April 6, 1937.

ORAL JUDGMENT delivered by the Chief Commissioner.

The view of the Board is that this application should be granted, and that the railways should be ordered to re-establish this crossing.

I think the merits of the case are entirely in favour of the applicant, and I think the law would bear us out in saying that he is entitled to this crossing.

I find also that a right of way does exist in regard to the southern portion of the property to be enjoyed by the owners of the northern portion, and that the right of way has not been extinguished from an evidence that has been presented to the Board.

The order will be that the crossing be re-established, and that the cost thereof be upon the railways.

ORDER No. 54161

In the matter of the application of Ernest Lauzon, of Pointe Claire, Quebec, hereinafter called the "Applicant," under Section 273 of the Railway Act, for an Order directing the Canadian Pacific Railway Company and the Canadian National Railways to re-establish, at their own expense, the farm crossing on original Lot 13 of Official Cadastre of the Parish of Pointe Claire, at Beaufort, in the Town of Beaconsfield, Quebec; and to bear the cost of maintenance thereof.

File No. 33993.9

SATURDAY, the 10th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Montreal, April 6, 1937, in the presence of counsel for the applicant and the railway companies, and what was alleged,—

It is ordered: That the Canadian Pacific Railway Company and the Canadian National Railways be, and they are hereby, required forthwith to re-establish the farm crossing on original lot 13 of Official Cadastre of the Parish of Pointe Claire, at Beaufort, in the town of Beaconsfield, province of Quebec.

2. That the cost of constructing and maintaining the said crossing be borne and paid by the Canadian Pacific Railway Company and the Canadian National Railways.

H. GUTHRIE,

Chief Commissioner.

Application of the Bell Telephone Company of Canada to construct its telephone lines along, across or under certain public highways, streets, etc., in City of Ottawa, Ont., lying south of Canadian National Railway Company's tracks west of Parkdale avenue and north of Carling avenue; and the questions relative to terms and conditions sought to be imposed upon applicant company by the city, as reserved by paragraph 2 of Order No. 53487, dated September 25, 1936.

File No. 20191.4

AND

Application of the Bell Telephone Company of Canada for an Order granting leave to construct and erect its lines of telephone along, across or under certain public highways, streets, etc., in City of Ottawa, Ont., lying west of Bronson avenue and south of Carling avenue, known as "Lakeside Park."

JUDGMENT

File No. 20191.5

GUTHRIE, CHIEF COMMISSIONER:

Both of the above applications were heard by the Board at Ottawa on March 22, 1937, in the presence of counsel for the applicant and for the city of Ottawa. At the outset it was agreed by all parties that these applications should be heard together as the questions involved in them closely resemble each other. Both of the above applications were made to the Board in September, 1936, and as the work proposed to be done by the applicant company in the city of Ottawa was urgent it was agreed between the applicant and the city of Ottawa that the proposed work should proceed and that all contentious questions as between the applicant and the city should remain in abeyance to be determined by the Board at a future date.

On September 26, 1936, an order, No. 53487, was made by the Board authorizing the applicant to construct the lines of telephone upon the highways, streets and lanes of the city of Ottawa shown upon the plans filed in connection with application No. 20191.4 and as more specifically set out in the said order, and by the said order it was also provided that all questions relative to the terms and conditions sought to be imposed upon the applicant by the said city of Ottawa in respect of the said works, and the questions raised in the said application relative to subsection 1 of section 373 of the Railway Act, should be reserved for consideration by the Board after the completion of the said works. The works and construction proposed to be done by the applicant under application No. 20191.5 were not proceeded with pending the Board's final determination of that application. All matters pertaining to both applications were presented to the Board by counsel for the applicant and for the city of Ottawa at the hearing on March 22, 1937.

It will be noted that by application No. 20191.5 the applicant seeks authority to construct and erect lines of telephone along the sides of and across or upon the public highways, streets, lanes and other such places within the corporate limits of the city of Ottawa as hereinafter described, namely, (1) in the section of the city of Ottawa lying west of Bronson avenue and south of Carling avenue, known as Lakeside Park, as shown on plan filed as Exhibit "A," and (2) at the intersection of Carling avenue and Island Park Drive, as shown on plan marked Exhibit "F" and filed by the applicant.

By way of answer to the above applications the city of Ottawa submitted that it was prepared to consent to the construction by the applicant of the telephone lines and other works set out in the said application, upon the company executing an agreement in the terms of the draft agreement filed as Exhibit "D" and prepared by the city of Ottawa for submission to the applicant. The city of Ottawa also submitted that the applicant company was bound by the provisions of subsection 1 of section 373 of the Railway Act, and also that by virtue of the provisions of subsections 2 and 3 of section 373 that the city was entitled to impose reasonable terms and conditions upon the applicant before the above works were authorized, and that the terms and conditions set out in the draft agreement, Exhibit "D," were reasonable and should be approved by the Board, and that any order to be made by the Board should include terms and conditions similar to those set out in such draft agreement. In reply to this submission by the city of Ottawa, the applicant company submitted that no right, power or authority was vested in the city of Ottawa which would entitle it to impose terms or conditions upon the applicant, and that in any event the terms and conditions sought to be imposed by the city of Ottawa upon the applicant were unreasonable and would restrict the applicant in the enjoyment of the rights conferred upon it by its Special Act of Incorporation.

The Bell Telephone Company of Canada was incorporated by an Act of the Parliament of Canada, 43 Vict., chapter 67, as amended by 45 Vict., chapter 96, and by section 4 of the said amending Act it was declared that the works authorized by the original Act were works for the general advantage of Canada. The power and authority of the company to construct, erect and maintain its telephone lines are to be found in section 3 of the said original Act. While the said Act has been amended on several subsequent occasions, none of the subsequent amendments concern the question raised upon this application.

Until the year 1899 there appears to have been no general act of the Parliament of Canada dealing with telephone companies or telephone lines, but by an amendment made to the Railway Act, 62-63 Vict., chapter 37, it was provided, among other things, that a company which had power by an Act of the Parliament of Canada to construct and maintain telephone lines might enter upon any highway, square or other public place with the consent of the municipal council having jurisdiction over same, for the purpose of exercising such power, under the conditions and restrictions more fully set out in section 2 of the said Act.

These provisions of section 2 were, with some alterations and variations, carried into the Railway Act as section 247 in the amendment of the Railway Act passed in 1906. The Railway Act was further amended in 1919, and section 247, with some further alterations and variations, eventually became section 373 of the present Railway Act.

Counsel for the applicant submitted a useful and convenient comparison of those parts of section 373, subsection 1, of the Railway Act and of the Bell Telephone Company's Special Act which concern this application in regard to the erection of poles, wires, etc., upon municipal streets and thoroughfares. For convenience of reference I include this comparison of the two Acts:—

COMPARISON OF THE CONDITIONS IMPOSED BY SECTION 373 (1) OF THE RAILWAY ACT, R.S.C. 1927, CHAPTER 170, WITH THE CONDITIONS IMPOSED BY AN ACT TO INCORPORATE THE BELL TELEPHONE COMPANY OF CANADA, 43 VICT., CHAPTER 67, AS AMENDED BY 45 VICT., CHAPTER 96.

RAILWAY ACT

373. Subject to the provisions of this section, any company empowered by Special Act or other authority of the Parliament of Canada to construct, operate and maintain telegraph or telephone lines, may for the purpose of exercising the said powers, enter upon, and, as often as the company thinks proper, break up and open any highway, square or other public place, provided always that

(a) such company shall not interfere with the public right of travel, or in any way obstruct the entrance to any door or gateway or free access to any building;

(b) in cities, towns and incorporated or police villages such company shall not permit any wire to be less than twenty-two feet, or less than any greater height which the Board may direct, above such highway or public place; nor shall it in any municipality permit any wire which crosses any highway or public place to be less than eighteen feet, or less than any greater height the Board may direct, above such highway or public place; nor shall it permit any wire which crosses or is adjacent to any private way, entrance or lane used for vehicular traffic to be less than seventeen feet or less than any greater height the Board may direct above such private way, entrance or lane; or erect more than one line of poles along any highway;

(c) all poles shall be as nearly straight and perpendicular, and shall in cities and towns, be painted;

(d) such company shall not unnecessarily nor without giving at least ten days' previous notice to the owner thereof or to the municipality, nor in any case where forbidden by the Board, cut down or mutilate any shade, fruit or ornamental trees, but the Board may when it deems proper dispense with such notice and may in any case make any order or direction it deems fit respecting such trees;

SPECIAL ACT

3. The said company may construct, erect and maintain its line or lines of telephone along the sides of and across or under any public highways, streets, bridges, watercourses or other such places, or across or under any navigable waters, either wholly in Canada or dividing Canada from any other country, provided

—the said company shall not interfere with the public right of travelling on or using such highways, streets, bridges, watercourses or navigable waters

—and provided that in cities, towns and incorporated villages the company shall not . . . affix any wire less than twenty-two feet above the surface of the street nor carry more than one line of poles along any street without the consent of the Municipal Council having jurisdiction over the streets of the said city, town or village

—and that in any city, town or incorporated village the poles shall be as nearly as possible straight and perpendicular, and shall, in cities, be painted if so required by any by-law of the Council

—provided also, that in so doing the said company shall not cut down or mutilate any tree;

(e) the opening up of any street, square, or other public place for the erection of poles, or for the carrying of wires under ground, shall be subject to the supervision of such persons as the municipal council may appoint, and such street, square or other public place shall, without any unnecessary delay, be restored, as far as possible, to its former condition;

(f) if for the purpose of removing buildings, or in the exercise of the public right of travel, it is necessary that the said wires or poles be temporarily removed by cutting or otherwise, such company shall, at its own expense, upon reasonable notice in writing from any person requiring it, remove such wires and poles; and in default of such company so doing such person may remove such wires and poles at the expense of such company;

(g) such company shall be responsible for all unnecessary damage which it causes in carrying out, maintaining or operating any of its said works;

(h) such company shall not be entitled to damages on account of its poles or wires being cut by direction of the officer in charge of the fire brigade at any fire, if, in the opinion of such officer, it is advisable that such poles or wires be cut;

(i) every person employed upon the work of erecting or repairing any line or instrument of such company shall have conspicuously attached to his dress a badge, on which are legibly inscribed the name of such company and a number by which he can be readily identified

(No corresponding provision)

(No corresponding provision)

(No corresponding provision)

—and provided that in cities, towns and incorporated villages, the location of the line or lines, and the opening up of the street for the erection of poles or for carrying the wires underground shall be done under the direction and supervision of the engineer or such other officer as the Council may appoint and in such manner as the Council may direct and that the surface of the street shall, in all cases be restored to its former condition by and at the expense of the company;

(No corresponding provision)

(No corresponding provision)

—and provided further, that whenever in case of fire it becomes necessary for its extinction or the preservation of property that the telephone wires should be cut, the cutting under such circumstances of any of the wires of the company under the direction of the chief engineer or other officer in charge of the fire brigade, shall not entitle the company to demand or claim compensation for any damages that might be so incurred.

(No corresponding provision)

—and provided that in cities, towns and incorporated villages the company shall not erect any pole higher than forty feet above the surface of the street . . . without the consent of the Municipal Council having jurisdiction over the streets of the said city, town or village

—and provided further that where lines of telegraph are already constructed, no poles shall be erected by the company in any city, town or incorporated village along the same side of the street where such poles are already erected, unless with the consent of the Council having jurisdiction over the streets of such city, town or incorporated village.

—Provided also, that no Act of Parliament requiring the company (in case efficient means are devised for carrying telephone wires under ground) to adopt such means, and abrogating the right given by this section, to continue carrying lines on poles through cities, towns or incorporated villages shall be deemed an infringement of the privileges granted by this Act:

It will be noted that the words in italics indicate the variations as between the two Acts.

The main differences as between the provisions of section 3 of the Bell Telephone Company's Special Act and section 373, subsection 1, of the Railway Act are—(1) in respect to the height of the wires to be erected, (2) the provision in respect to crossing of a private way, entrance or lane, (3) in respect to the cutting down or mutilating shade trees, (4) in respect of the removal of buildings where it becomes necessary temporarily to remove wires or poles as provided in the Railway Act. However it may be generally stated that under the provisions of each of these Acts a certain amount of direction and control was and still continues to be vested in the proper municipal authorities in respect of the location of telephone lines, the opening up of streets, placing of poles, etc.

By the interpretation clause of the Railway Act, section 2, subsection 4, the word "company" when preceded by the word "any" "every" or "all" means every kind of company which the context will permit of, and it is to be noted that the introductory words to section 373 are as follows: "Subject to the provisions of this section, any company empowered by Special Act or other authority of the Parliament of Canada," while the introductory words to subsection 2 of section 373 are as follows: "Notwithstanding anything in any Act of the Parliament of Canada or of the legislature of any province, or any power or authority heretofore or hereafter conferred thereby or derived therefrom," while the introductory words to subsection 6 of section 373, having to do with the placing of underground wires, are as follows: "Notwithstanding any power or authority heretofore or hereafter conferred upon any company by or under any Act of the Parliament of Canada, or of the legislature of any province, or any other authority."

It is a recognized principle in the interpretation of statutes that the provisions in a General Act of Parliament do not alter or repeal the provisions of a Special Act previously enacted, unless explicit language has been employed in the General Act to effect such a purpose. In other words, a subsequent General Act does not repeal by implication a prior Special Act. See Maxwell on Statutes, Fourth Edition, p. 263-264. See Beale Rules of Legal Interpretation, Third Edition, p. 425-433. See Craies Statute Law, Fourth Edition, p. 321. I find nothing in the Railway Act to indicate that Parliament intended to override the provisions of the applicant company's Special Act. Section 3, paragraph (b) is as follows:—

"(b) where the provisions of this Act and of any Special Act passed by the Parliament of Canada relate to the same subject-matter the provisions of the Special Act shall, in so far as is necessary to give effect to such Special Act, be taken to override the provisions of this Act."

It is true that the opening paragraph of section 373 contains words of somewhat general application. It provides that "any company empowered by Special Act or other authority of the Parliament of Canada to construct, operate and maintain telegraph or telephone lines, etc." In my opinion section 373 (1) applies only to a company which has been empowered by Parliament to construct and maintain telegraph or telephone lines but which company had not been given authority to enter upon highways, squares or public places; as for example, railway companies which had been authorized to operate telephone lines but had not been authorized to enter upon lands or highways prior to the passage of section 2, chapter 37, 62-63 Vict. This was the view of the Privy Council in regard to section 373 (1) (then section 247) as expressed by the Lord Chancellor in the Judgment of the Privy Council in *Toronto and Niagara Power Company vs. Town of North Toronto* (1912), A.C. 834.

In many respects the case of the Toronto and Niagara Power Company vs. the Town of North Toronto raises much the same questions for decision by this Board as were considered and decided by the Privy Council in the judgment above referred to. In the above case an electrical power company claimed the right, under a Special Act of the Parliament of Canada passed in 1902, to go upon the streets of North Toronto for the purpose of erecting poles and stringing power transmission lines without the consent of the Municipality. It was held by the Privy Council that the power company had a right to do so under the terms of its Special Act notwithstanding section 373 (1) (then section 247).

The Toronto and Niagara Power Company vs. Town of North Toronto case was decided by the Privy Council in the year 1912, and were it not for an amendment of section 373 made by Parliament in the year 1919 (chapter 68, section 373, 9-10 Geo V) I would have no difficulty in deciding that the provisions of section 373 subsection 1, do not apply to the Bell Telephone Company.

By the amendment of the section in 1919 some new paragraphs were added to subsection 1 of section 373, but the more important amendment was made in respect of subsections 2, 3, 4, 5 and 6. In their amended form I think subsections 2, 3, 4 and 5 must be read together as pertaining to the same general subject, namely, the power of the Board to make orders and impose terms and conditions in respect of the construction of telegraph and telephone lines upon, along or across any highway, square or other public place in cases where the municipality has failed or declined to give its consent to such construction.

It is important to note that the introductory words to subsection 2 of section 373, which are as follows: "Notwithstanding anything in any Act of the Parliament of Canada or of the legislature of any province, or any power or authority heretofore or hereafter conferred thereby or derived therefrom, no telegraph or telephone line, within the legislative authority of the Parliament of Canada, shall except as hereinafter in this section provided, be constructed by *any* company, etc.," were not in 247 of the Railway Act of 1906—the section their Lordships were interpreting in *Toronto & Niagara Power Co. v. Town of North Toronto*, and upon which the decision turned.

In my opinion these introductory words to subsection 2 make subsections 2, 3, 4 and 5 applicable to all telegraph and telephone companies. This language is broader and more comprehensive than that used in the introduction to subsection 1 of section 373. In my opinion the introductory language of subsection 2 is sufficiently broad to include the applicant company for all purposes under subsections 2, 3, 4 and 5.

It is to be noted also that in its amended form subsection 5 is as follows:—

"5. Upon such order being made, and subject to any terms imposed by the Board, such company may exercise such powers in accordance with such order, and shall in the performance and execution thereof, or in the repairing, renewing or maintaining of such lines, wires or poles, conform to and be subject to the provisions of subsection one of this section, except in so far as the said provisions are expressly varied by order of the Board."

The alteration made by the amendment in this subsection, which was subsection 7 of section 247 prior to the amendment, adds the words "and subject to any terms imposed by the Board" in the first line and at line six substitutes the words "subsection one of this section" for the words "this section applicable in case of consent obtained from such municipal council or other authority."

Giving effect to the Privy Council decision in *Toronto and Niagara Power Co. v. Town of North Toronto*, as I read it, the only limitation to the powers of the Board under subsections 2, 3, 4 and 5 to impose terms and conditions in respect of any application by a telephone company to construct its line upon,

along or across any highway, square or public place is that such terms or conditions must not result in a denial or prohibition of the rights which the applicant company has been granted by Parliament under its Special Act; and that such terms may be imposed only as matters of regulation and not by way of prevention or prohibition. See *City of Toronto v. Virgo* (1896), A.C. 88, at p. 93. The Board has heretofore recognized this distinction in a number of cases cited by counsel upon the hearing: *Bell Telephone Co. v. Owen Sound* (1904), 80 L.R. 74; *Windsor v. Bell Telephone Co.* (1918), 22 C.R.C., 416; *Bell Telephone Co. v. Ottawa* (1918), 22 C.R.C., 421. So long as the terms which the Board may see fit to impose are in their effect merely regulatory and not prohibitive, I think they are authorized under the provisions of subsections 2, 3, 4 and 5 of section 373 as against the applicant company.

Certain of the provisions of section 373, subsection 1, conflict with the powers conferred upon the applicant company by its Special Act. In the conclusion I have reached, the Board is without power to compel the applicant company to subject itself to such of the provisions of subsection 1 as conflict with the provisions of the Special Act.

Some argument was addressed to the Board in regard to section 375 of the Act which makes provisions governing the rates and tolls which may be charged by telegraph and telephone companies, and also sets out the powers of the Board in relation thereto. Subsection 12 of section 375 contains a general declaration of the jurisdiction of the Board and enumerates the various sections of the Railway Act which do not apply to telegraph and telephone companies. It will be noted that as a result of this enumeration of excepted sections that subsection 2 of section 373 does apply to telegraph and telephone companies where the provisions of the Railway Act are not inconsistent with the Special Act. "Special Act" under this subsection is defined by subsection 1, par. (b), of section 375. In my opinion the provisions of subsection 12, section 375, do not alter the situation in any way in respect of the application of subsections 2, 3, 4 and 5 of section 373 to all telephone and telegraph companies unless the Board should seek to impose conditions inconsistent with the Special Act.

Both of the applications now under consideration have been made to the Board under the provisions of subsection 3 of paragraph 373, and I think that in so doing the applicant company has recognized the application not only of subsection 3 but also of the related subsections 2, 4 and 5 to the Bell Telephone Company.

It now comes to a question of what fair and reasonable terms, if any, should be imposed upon the company in respect of these applications.

Notwithstanding the broad powers vested in the Board to impose terms in respect of these applications, I do not consider that any terms should be imposed which would derogate from the terms of the Special Act or limit or control or deny any special rights or privileges which Parliament has accorded to the company. I do not wish it to be inferred from what I have just said that the Board has not power to impose any condition which it may deem expedient within the provisions of the Railway Act, but that for the purpose of the present applications the imposition of proper terms and conditions need not in any respect infringe upon the rights of the applicant company under its Special Act.

When application was made by the applicant company to the Corporation of the City of Ottawa for consent to the works proposed under these applications, the city was unwilling to consent except upon terms and conditions, which the company declined to accept. The conditions which the City of Ottawa seeks to impose in respect of these works are briefly summarized as follows:—

(1) That the company shall observe the provisions of subsection 1 of section 373 of the Railway Act and of all Acts which may hereafter be passed in amendment thereof in regard to the location and maintenance of telephone lines, poles, cables and other works and equipment.

(2) Should it become necessary for the company to cut or trim shade trees, that the company should notify the Commissioner of Works of the City of Ottawa, in writing, of its intention so to do, and that all work in connection with the cutting or trimming of trees should be carried on under the supervision of the Superintendent of Parks of the City of Ottawa. That should any claim for compensation be made in respect of any such trees, that the company will indemnify the city against all claims and costs incidental thereto.

(3) Should it become necessary for the city to take up or relocate any telephone line, pole, cable or other equipment for the purpose of enabling the city to construct or repair any municipal work, that the company should pay half the cost of re-establishing such telephone line in the manner specified in the public service work on highways of the province of Ontario, or in any Act of the province of Ontario which might hereafter be passed in amendment thereof.

(4) Should the telephone line, poles or equipment fall into disrepair or become a source of danger or hazard to the public, that the company, upon notice from the Commissioner of Works of the city, remove, repair or renew the same with reasonable dispatch, and in default that the city may remove the same at the expense of the company.

(5) That the telephone poles shown on the plans be made available for use by the city in connection with its fire alarm system, in accordance with the terms of a presently existing agreement between the company and the city, dated 6th February, 1933.

(6) That the company or the city, after the expiration of ten years, might apply to the Board for an order rescinding, varying or supplementing the above conditions, or any of them.

(7) That the company before opening up any street for the purpose of erecting poles should serve notice upon the Commissioner of Works of the city, giving three clear days' notice of its intention so to do, and shall proceed with such work with reasonable dispatch under the supervision of an officer appointed by such commissioner, and that the company pay the city the cost of restoring any and all pavements, sidewalks, etc., which may be interfered with by the carrying on of such work plus 20 per cent additional for supervision.

In my opinion the first of these conditions above set out may well be disregarded. I do not think the applicant company should be put under any special condition in respect of subsection 1 of section 373 of the Railway Act unless the company itself desires to take advantage of any of the provisions of that subsection pursuant to the terms of subsection 5 of section 373.

As to the second condition requested by the city, it is only necessary to point out that the applicant company, under its Act of Incorporation, is bound not to cut down or mutilate any tree. If hereafter the company finds it necessary to do so, it will have to do so through agreement with the owner of the tree.

In regard to the third condition, I do not think it reasonable to impose such a burden upon the applicant company. If the city, in the future, should desire the relocation of the poles or equipment of the company for the purpose of enabling the city of Ottawa to construct or repair municipal works, the Board will then decide whether, under all the circumstances, there should be any apportionment of the cost of such work upon application made to it for such purpose.

In regard to the fourth condition, I think the proposal therein contained is reasonable and should be adopted.

In regard to the fifth proposal, I think the suggestion might be adopted in a modified form providing that when the city desires to make available the telephone poles of the company, or any of them, for the purpose of its fire alarm system, that application should be made to the company for that purpose, specifying the poles which the city desires to use, and if the company will not consent to such use by the city, or if the parties cannot agree, that the matter should be finally determined by the Board.

With regard to the sixth condition, in my opinion it is unreasonable and unnecessary. It is always open to the parties in matters of this kind to make application to the Board for relief on account of new or changed conditions. The Board has express powers to review, rescind, change, alter or vary any order or decision made by it.

With regard to the seventh condition, I think that also is unnecessary in view of the terms of the Special Act. It is provided in the Special Act that in cities, towns and incorporated villages the opening up of the street for the erection of poles, or for carrying the wires underground, shall be done under the direction and supervision of the engineer or such other officer as the council may appoint, and in such manner as the council may direct, and that the surface of the street shall in all cases be restored to its former condition by and at the expense of the company. I think the provisions just quoted from the Special Act sufficiently cover the seventh condition sought by the city.

The only remaining question is in respect of application No. 20191.5 in regard to the construction work which the applicants propose at Lakeside Park and at the intersection of Carling avenue and Island Park Drive. In respect to this application the city of Ottawa has again asked that the same conditions be applied to this undertaking as were sought by the city in regard to the other application, and in addition thereto that a special condition should be imposed upon the applicant company that where the company's conduits cross existing or future water main and sewer trenches that the city be guaranteed against claims for sinkages, and where the conduits are in rock, or within one foot of rock, that the applicant be required to drill and blast to a depth of at least two feet below the bottom of the conduit. This condition was sought by the city in a letter from the secretary of the Board of Control addressed to the applicant company on October 14, 1936, but subsequently the city modified its request in respect of these conduits in a letter addressed to the applicant company on October 23, 1936. In this letter the city of Ottawa informed the applicant company:—

“It will not be necessary, however, for the company to excavate in rock two feet below the level of all conduits laid, but only where they will be undercrossed by sewers, water mains or their underground structures. I suggest, therefore, that they be required to drill and blast to a depth of at least two feet below the bottom of their conduits where, in the opinion of the civic official in charge, their conduits will be undercrossed by sewers, water mains or other structures The reason for this is that a cushion of soft soil may be placed between the rock level and the bottom of their conduits to take up any shocks that may be caused by blasting and thereby prevent the fracture of the conduits.” //

and the application rested upon the terms of this letter when it was formally heard by the Board. At the hearing Mr. Frank Chatham Askwith, Commissioner of Works of the City of Ottawa, gave evidence in regard to the conditions which the city sought to impose in respect of underground conduits. The effect of Mr. Askwith's evidence is that the imposition of these conditions would render future works undertaken by the city, when the time came to lay water mains, sewers and the like under the conduits of the applicant company, more accessible, less expensive and somewhat less dangerous of accomplishment than if

the above conditions were not imposed. Mr. Askwith stated that if in cases where the conduits were laid upon rock the applicant company were compelled to excavate the rock deep enough to permit of a cushion of soft earth under the conduit it would enable the city, at a later date, to lay any substructures which it might have to lay with greater safety, facility and less cost. I do not think it would be reasonable to impose a condition of this kind upon the applicant company. It would, in a manner, constitute the applicant company an assurer in respect of the future construction works of the city. It would also materially increase the applicant's cost of construction at the present time, and in my view of the matter such a condition would be unreasonable and should not be imposed upon the applicant. I consider that the only thing which can reasonably be required of the applicant in this respect is that suitable materials be used and modern engineering methods employed in the laying of these conduits. Should the applicant fail to comply with either of these requirements the matter may again be brought before the Board for such further action as the Board may deem necessary.

I think an order should be made in respect of these applications under files Nos. 20191.4 and 20191.5, granting same, subject only to the terms and conditions hereinbefore set out, namely, in respect of the future repair of telephone lines as set out in the fourth paragraph of the conditions submitted by the city of Ottawa; and in respect to the use of telephone poles by the city of Ottawa for fire alarm purposes. I think a condition should be imposed making available the telephone poles for fire alarm purposes, but that the city should make application to the company specifying the particular poles to be used from time to time. If the company and the city cannot agree upon the use of the poles for this purpose, the Board should be asked to decide the matter as occasion may arise. The above are the only conditions which I think should be imposed under all the circumstances attendant upon these applications.

MARCH 31, 1937.

The Assistant Chief Commissioner, the Deputy Chief Commissioner and Commissioners Stoneman and Stone concurred.

ORDER No. 54165

In the matter of the Order of the Board No. 53487, dated September 26, 1936, authorizing the Bell Telephone Company of Canada, hereinafter called the "Applicant Company," to construct, reconstruct, erect, re-erect, and maintain its lines of telephone and plant along the sides of, across, or under the public highways, streets, lanes, and other such places in the City of Ottawa therein particularly described and in the manner therein provided, in the exercise of its statutory powers in that behalf; and reserving for further consideration by the Board all questions relative to the terms and conditions sought to be imposed upon the Applicant Company by the City of Ottawa in respect of the said works, and the questions raised in the application relative to subsection (1) of Section 373 of the Railway Act.

File No. 20191.4

MONDAY, the 12th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held in Ottawa, March 22, 1937, in the presence of counsel for the applicant company and the city of Ottawa, and what was alleged.—

It is ordered: That, in the exercise by the applicant company of its statutory powers in that behalf and without limiting the jurisdiction of the Board in case of a dispute between the parties with regard to the exercise of such statutory powers, the works authorized by the said Order No. 53487, dated September 26, 1936, be subject to the terms and conditions following, namely:—

(1) Should the telephone line, poles, or equipment fall into disrepair or become a source of danger or hazard to the public, the applicant company shall, upon notice from the commissioner of works of the city, remove, repair, or renew the same with reasonable despatch; and in default the city may apply to the Board for authority to remove the same at the expense of the applicant company; and

(2) When the city desires to make available the telephone lines of the applicant company, or any of them, for the purpose of its fire alarm system, application shall be made to the applicant company for that purpose, specifying the poles which the city desires to use; and if the applicant company does not consent to such use by the city, or if the parties are unable to agree, then the matter to be determined by the Board.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54166

In the matter of the application of the Bell Telephone Company of Canada, hereinafter called the "Applicant Company," under Section 373 of the Railway Act, for leave to exercise its statutory powers to construct and erect its lines of telephone along the sides of and across or under the public highways, streets, lanes, and other such places within the corporate limits of the City of Ottawa, hereinafter particularly described, in order to furnish telephone service in the section of the City of Ottawa lying west of Bronson Avenue and south of Carling Avenue, known as "Lakeside Park," and at the intersection of Carling Avenue and Island Park Drive.

File No. 20191.5

MONDAY, the 12th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held in Ottawa, March 22, 1937, in the presence of counsel for the applicant company and the city of Ottawa, and what was alleged,—

It Is Ordered:

1. That, in the exercise of its statutory powers in that behalf and without limiting the jurisdiction of the Board in case of a dispute between the parties with regard to the exercise of such statutory powers, the applicant company be, and it is hereby, authorized to construct and erect its lines of telephone along the sides of and across or under the public highways, streets, lanes, and other such places in the city of Ottawa hereinafter mentioned and in the manner hereinafter provided, namely:—

1. In the section of the city of Ottawa lying west of Bronson avenue and south of Carling avenue, known as "Lakeside Park."

(a) Underground conduit and cable telephone lines from the pole on the northwest corner of Kippewa Drive and Bronson avenue under Kippewa Drive to a pole in the lane west of Bronson avenue, south of Kippewa Drive.

(b) Aerial cable telephone lines with suspension strands and incidental facilities on the east side of the lane west of Bronson avenue from Kippewa Drive to Madawaska Drive. The said aerial cable lines are to be placed on Ottawa Electric Company poles under agreement with said company, thence extended southerly in underground cable under Madawaska Drive.

(c) Aerial cable telephone lines with suspension strands and incidental facilities across from east to west side of the lane west of Bronson avenue, south of Kippewa Drive, and also across the lane connecting Kippewa Drive and Madawaska Drive, east of lots Nos. 52 and 73.

(d) Underground cable under the lane between lots Nos. 73 and 74 to Madawaska Drive, thence southerly under Madawaska Drive to the property line between lots Nos. 87 and 88.

(e) Underground conduit and cable telephone lines from the manhole at the intersection of Carling avenue and Cambridge street southerly about 170 feet to the pole on the east side of Cambridge street.

(f) Aerial cable telephone lines with suspension strands and incidental facilities on the east side of Cambridge street from south of Carling avenue to north of Kippewa Drive, with extension westerly from Cambridge street in the lane south of Carling avenue, crossing Cambridge street and Jackson avenue, and extension westerly across Cambridge street to the block between Frederick avenue and Kippewa Drive. The said aerial cable lines are to be placed on Ottawa Electric Company poles under agreement with said company.

All in the locations and otherwise in the manner shown on the plan marked "Aerial Cable Plan No. 1, Estimate No. 5901, Ottawa-Carling," on file with the Board under file No. 20191.5.

2. At the intersection of Carling avenue and Island Park Drive.

(a) One pole and one anchor guy on the southerly side of Carling avenue approximately midway between Holland avenue and Island Park Drive, together with a branch aerial cable telephone line with suspension strand and incidental facilities crossing Carling avenue in a northwesterly direction from the said pole to a pole located on private property.

(b) Underground cable telephone lines from the above described pole location to the existing pole on Carling avenue approximately 120 feet westerly from the intersection of Fisher avenue with Carling avenue, together with an anchor guy to be placed in an easterly direction from the said pole.

(c) A manhole at the southwesterly corner of the intersection of Carling avenue and Fisher avenue.

(d) Buried cable telephone lines from the above described manhole location to the city limit at the southerly property line of Carling avenue.

All in the locations and otherwise in the manner shown on "Plan No. 1, C.P.O. No. 9947, Ottawa-Carling," on file with the Board under file No. 20191.5.

PROVIDED, however, that nothing in this order shall be deemed to authorize or permit the applicant company to construct its lines across or upon any private property without the consent of the owners of such private property.

2. That the work herein authorized be subject to the terms and conditions following, namely:—

(1) Should the telephone line, poles, or equipment fall into disrepair or become a source of danger or hazard to the public, the applicant company shall, upon notice from the commissioner of works of the city, remove, repair, or

renew the same with reasonable despatch; and in default the city may apply to the Board for authority to remove the same at the expense of the applicant company; and

(2) When the city desires to make available the telephone poles of the applicant company, or any of them, for the purpose of its fire alarm system, application shall be made to the applicant company for that purpose, specifying the poles which the city desires to use; and if the applicant company does not consent to such use by the city, or if the parties are unable to agree, then the matter to be determined by the Board.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54156

In the matter of the application of the Railway Express Agency, Incorporated, under Section 323 of the Railway Act, for approval of Article IX of its by-laws, dated March 30, 1937, authorizing the Traffic Manager of the Corporation to prepare and issue tariffs of the tolls to be charged for all traffic carried by the Corporation.

File No. 32644

THURSDAY, the 8th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That Article IX of the by-laws of the Railway Express Agency, Incorporated, dated March 30, 1937, authorizing the Traffic Manager of the Corporation to prepare and issue tariffs of the tolls to be charged for all traffic carried by the Corporation, on file with the Board under file No. 32644, be, and it is hereby, approved.

2. That Orders numbered 33510, dated April 11, 1923, and 42242, dated February 23, 1929, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54169

In the matter of the tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 12th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board Orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act, namely:—

Supplement	38	to	Tariff	C.R.C. No.	E-1238
"	23	"	"	"	E-1745
"	29	"	"	"	E-1906
"	30	"	"	"	E-1974
"	24	"	"	"	E-2047
"	15	"	"	"	E-2444
"	1	"	"	"	E-2564
"	2	"	"	"	E-2564

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54174

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act; and the Order of the Board No. 54045, dated March 6, 1937, approving of tolls published in Tariff C.R.C. No. E-4790 filed by the Canadian Pacific Railway Company.

File No. 34822.12

TUESDAY, the 13th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

Upon its appearing that an error was made in constructing the normal tolls in connection with the said Tariff C.R.C. No. E-4790,—

It is ordered: That the said Order No. 54045, dated March 6, 1937, be, and it is hereby, amended by striking out the figures "201" in item 880, in the column headed Group K, and substituting therefor the figures "202."

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54175

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 13th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board Orders:

1. That the toll published in item 501 of Supplement No. 11 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 501 of Supplement No. 11 to Tariff C.R.C. No. 1006, approved herein, is as follows:—

To	Cents per 100 pounds
Truro, N.S.	23½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54176

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 13th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in Tariff C.R.C. No. 1030, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1030, approved herein, are as follows:—

To	Cents per 100 pounds
Digby, N.S.	11
Plympton, N.S.	11
Weymouth, N.S.	11
Church Point, N.S.	11
Little Brook, N.S.	11
Meteghan, N.S.	11
Yarmouth, N.S.	9½

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54168

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to increase the rate, on less than statutory notice, on coffee, condensed; milk, condensed or evaporated, powdered or flaked, in straight or mixed carloads, from Truro, Nova Scotia, to Fort William, Port Arthur, West Fort William, and Sault Ste. Marie, Ontario, published in Tariff C.R.C. No. E. 2562.

File No. 27612.150

WEDNESDAY, the 14th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon its appearing that the present rate of 31 cents per 100 pounds was published to meet truck and water competition, and that the advanced rate will likewise be published for the same reason; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the applicants be, and they are hereby, granted leave to increase, on three days' notice, the rate on coffee, condensed; milk, condensed or evaporated, powdered or flaked, in straight or mixed carloads, from Truro, Nova Scotia, to Fort William, Port Arthur, West Fort William, and Sault Ste. Marie, Ontario.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54179

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 14th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items Nos. 675A, 2720, 2725, 2730, 2738, and 2756 of Supplement No. 14 to Tariff C.R.C. No. E-4797, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 675A, 2720, 2725, 2730, 2738, and 2756 of Supplement No. 14 to Tariff C.R.C. No. E-4797, approved herein, are as follows:—

Item 675A To	Cents per 100 pounds Minimum weights			
	24,000 lbs.	60,000 lbs.		
Edmundston, N.B.	29½	27		
Fredericton, N.B.	14½	..		
Riviere du Loup, Que.	25	..		
Item 2720 To	30,000 lbs.	40,000 lbs.	60,000 lbs.	80,000 lbs.
Belleville, Ont. . . . .	..	39	34	31½
Brantford, Ont. . . . .	..	35	..	32½
Brockville, Ont.	39	..	33	31
Chatham, Ont. . . . .	..	..	40½	..
Chesterville, Ont.	40	..	..	..
Cornwall, Ont.	39	..	33	31
Drummondville, Que.	39½	..	..	..
Fort William, Ont. . . . .	..	..	37	35
Garthby, Que. . . . .	..	35½	..	..
Grand Mere, Que.	39½	..	..	..
Guelph, Ont. . . . .	..	34½	..	..
Hamilton, Ont. . . . .	..	..	33	31
Kingston, Ont. . . . .	..	..	32½	30½
Kitchener, Ont. . . . .	..	35	..	..
Levis, Que. . . . .	..	..	31½	27½
Lindsay, Ont. . . . .	..	36½	..	..
Item 2725 To				
Listowel, Ont. . . . .	..	41	..	..
London, Ont. . . . .	..	..	33½	31
Magog, Que.	37½	..	..	..
Megantic, Que.	41	..	..	..
Montreal, Que. . . . .	..	..	30½	25
Niagara Falls, Ont. . . . .	..	35½	33	..
Orillia, Ont. . . . .	..	36½	..	..
Oshawa, Ont. . . . .	..	35	33½	31
Ottawa, Ont. . . . .	..	..	33	31
Owen Sound, Ont. . . . .	..	38½	36½	..
Parry Sound, Ont. . . . .	..	49	..	..
Pembroke, Ont.	44	..	..	..
Perth, Ont.	42½	..	..	..
Peterboro, Ont. . . . .	..	35½	..	..
Port Arthur, Ont. . . . .	..	..	37	35
Quebec, Que. . . . .	..	..	30½	27

Item 2730 To	Cents per 100 pounds Minimum weights			
	30,000 lbs.	40,000 lbs.	60,000 lbs.	80,000 lbs.
St. Catharines, Ont. . . . .	..	35½	33	..
St. Thomas, Ont. . . . .	..	39½	..	..
Sarnia, Ont. . . . .	..	43	36½	34
Sault Ste. Marie, Ont.	58½	..	36	34
Shawinigan Falls, Que.	39½	..	..	..
Sherbrooke, Que.	38½	..	..	..
Simcoe, Ont. . . . .	..	38	..	33½
Smiths Falls, Ont.	41	..	..	..
Thetford Mines, Que.	44½	35½	..	..
Thorold, Ont. . . . .	..	..	33	31
Toronto, Ont. . . . .	..	..	33½	31
Trois Rivières, Que. . . . .	..	..	31	26
Tweed, Ont. . . . .	..	44	..	..
West Fort William, Ont. . . . .	..	..	37	35
Windsor, Ont. . . . .	..	43	36½	34

Item 2738 To	Cents per 100 pounds	
Perth Jct., N.B.		30
Woodstock, N.B.		20

Item 2756

The normal rates are those shown in Scale
"J" of Tariff C.R.C. No. E-4221

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54180

*In the matter of tariffs and supplements to tariffs filed under the provisions of
the Maritime Freight Rates Act.*

File No. 34822.2

WEDNESDAY, the 14th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 990 of Supplement No. 1 to Tariff C.R.C. No. E-2564, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Canada and Gulf Terminal Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Canada and Gulf Terminal Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 990 of Supplement No. 1 to Tariff C.R.C. No. E-2564, approved herein, is as follows:—

Item 990 to	Cents per 100 pounds	
	Billed	Normal
Matane, Que.	8	10

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54181

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 14th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 1010 of Tariff C.R.C. No. E-2564, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Cumberland Railway and Coal Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Cumberland Railway and Coal Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 1010 of Tariff C.R.C. No. E-2564, approved herein, is as follows:—

Item 1010 to	Cents per 100 pounds	
	Billed	Normal
Springhill, N.S.	5	6

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54186

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 14th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1031, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Act; the Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1031, approved herein, are as follows:—

Item		Cents per 100 pounds	
		Billed	Normal
Item 1	To		
	Saint John, N.B.	11·8	14·8
Item 2	To		
	Saint John, N.B.	17·3	21·4
Item 3	To		
	Paradise, N.S.	18·8	21·2
	Lawrencetown, N.S.	18·8	21·2
	Middleton, N.S.	18·8	23·6
	Aylesford, N.S.	19·3	22·8
	Berwick, N.S.	19·0	23·8
	Waterville, N.S.	26·1	31·7
	Kentville, N.S.	26·1	31·7
	Wolfville, N.S.	27·8	34·3
	Kingsport, N.S.	28·1	33·8
Item 4	To		
	Saint John, N.B.	18·4	23·0
Item 5	To	Cents per drum	
	Halifax, N.S.	59·5	74·5
Item 6	To	Cents per 100 pounds	
	Halifax, N.S.	10·8	13·6
Item 7	To		
	Halifax, N.S.	18·4	23·0

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54187

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 14th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 990 of Tariff C.R.C. No. E-2564, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Canada and Gulf Terminal Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Canada and Gulf Terminal Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 990 of Tariff C.R.C. No. E-2564, approved herein, is as follows:—

Item		Cents per 100 pounds	
		Billed	Normal
Item 990	To		
	Matane, Que.	10	12·5

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54194

In the matter of the application of the Quebec Central Railway Company, hereinafter called the "Applicant Company," for permission to file, on less than statutory notice, a reissue of Tariff C.R.C. No. 1109, to correct a typographical error.

File No. 27612.151

SATURDAY, the 17th day of April, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
G. A. STONE, *Commissioner.*

Upon its appearing that through a typographical error incorrect rates were published from St. George and Ste. Justine, Quebec, to Barton, Vermont, in Tariff C.R.C. No. 1109,—

It is ordered: That the applicant company be, and it is hereby, permitted to publish and file, on five days' notice, a reissue of Tariff C.R.C. No. 1109, to correct the rates to Barton, Vermont.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54195

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 17th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 815 of 3rd revised page 45, and item No. 900 of 1st revised page 46, of Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 815 of 3rd revised page 45, and item No. 900 of 1st revised page 46, of Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item	Cents per 100 pounds
815..	The third-class rates covered by previous order or orders will apply.
900	
To Waterloo, Ont...	47½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54199

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 19th day of April, A.D. 1937.

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement	45	to	Tariff	C.R.C.	No.	E-1247.
"	46	"	"	"	"	E-1247.
"	34	"	"	"	"	E-1689.
"	42	"	"	"	"	E-1829.
"	43	"	"	"	"	E-1829.
"	43	"	"	"	"	E-1911.
"	3	"	"	"	"	E-2428.
"	1	"	"	"	"	E-2560.
"	3	"	"	"	"	E-2564.
Tariff	C.R.C.	No.	E-2573.			
"	"	"	E-2574.			
"	"	"	E-2576.			
"	"	"	E-2577.			
"	"	"	E-2582.			

F. NAP. GARCEAU,
Deputy Chief Commissioner.

Judgments, Orders, Regulations, and Rulings

No. 4

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Application of the Canadian National Railways for an Order authorizing the removal of gates and the substitution therefor of wigwags and bells at Ontario Street, Grimsby, Ontario.

File No. 9374

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This application was heard by the Board at Welland on April 19, 1937, in the presence of counsel for the applicant and of representatives of the village of Grimsby and of the township of North Grimsby.

The village of Grimsby is situated upon the main line of the Canadian National Railways between Hamilton and Niagara Falls. Ontario street is the main street of the village, running in a northerly and southerly direction. About one mile to the north of the village this street extends to lake Ontario, and to the north of the village about four or five hundred feet from the railway crossing in question Ontario Government Highway No. 8 is now under construction, and on completion it is said by the municipal authorities that the traffic on main street will be considerably increased. At the point where main street crosses the railway there are apparently five tracks. One of these tracks is for westbound main line trains, the other for eastbound main line trains, and three service or switching tracks. Since 1909 this crossing has been protected by gates operated by watchmen on a twenty-four hour service. The gates were installed under an order of the Board, No. 6232. The annual cost of operation of these gates is placed at \$3,491, of which the railway pays 80 per cent, the village of Grimsby 10 per cent, and the township of North Grimsby 10 per cent. It is stated by the applicant that bells and wigwags can be installed at this crossing at an estimated cost of \$3,480 and that the annual cost of maintenance and operation would be about \$250. The applicants also state that the application is purely a matter of economy and reduction in cost, and the annual saving if a change were made would be in the neighbourhood of \$3,250.

There have been a number of serious accidents at this crossing, which started, according to the Board's records, in the year 1904. Some of these acci-

dents have taken place since the gates were installed and some prior thereto. The traffic count submitted by the applicants for a forty-eight hour period from September 17 to September 19, 1936, shows 55 train movements and 55 switching movements over this crossing during 48 hours. It also shows that 2,314 pedestrians passed over the crossing and 2,442 vehicles of all kinds during the same period of time. This traffic count was taken at a busy season at Grimsby station on account of the heavy fruit shipments which take place in September in each year.

The representatives of the village of Grimsby and the township of North Grimsby strongly oppose any change from protection by gates to bells and wigwags. They say these municipalities are prepared to continue to pay their portion of the cost of maintaining gates. They allege that the crossing is a dangerous crossing and that the traffic on Ontario street will be considerably increased as soon as Government Highway No. 8 has been completed. They also state that a large number of school children cross the railway at this crossing four times a day. They place the number of school children who use the crossing at about 200, although no actual count has been taken in regard to the school children. The feeling of the local community who are most concerned with the matter seems to be entirely opposed to any change in the protection of this crossing, and, under these circumstances, I would not feel warranted in authorizing the removal of the gates. It is also to be noted that many of the trains which pass this crossing are fast through trains. Three passenger trains daily go over the crossing without making any stop at Grimsby station, and five to seven freight trains do the same thing. As a rule these are fast trains and, in the opinion of the local community, tend to increase the hazard. The gates at this crossing have now been maintained since 1909 and the people have been accustomed to this form of protection at this crossing. I do not think any change should be authorized at the present time.

April 26, 1937.

Commissioner Stone concurred.

Application of the Canadian National Railways for an Order authorizing the removal of gates and the substitution therefor of wigwags and bells at Ontario Street, Grimsby, Ontario.

File No. 9374

McLEAN, ASSISTANT CHIEF COMMISSIONER:

Gates have been in place at this point since 1909. Order No. 6232 of February 12, 1909, directed gate protection. The expense of installation was to be on the railway. The wages of the watchmen, together with the cost of maintenance of gates and the watchmen's shelter, were to be borne and paid 80 per cent by the railway company, 10 per cent by the village of Grimsby, and 10 per cent by the township of North Grimsby.

At the time this order was made bells were in use for protective purposes at various points, but the wigwag attachment, which added greatly to the efficiency of the bell and wigwag, did not come into use until about 1912. The bell and wigwag now in operation is, it seems to me, a distinct improvement over that which was in operation in 1912.

I realize that in the present case the residents of Grimsby and vicinity have become accustomed to gates and consider that giving up the gates and replacing them by bells and wigwags would be a retrograde step. However, it seems to me that with reasonable care a crossing will be as safe with bell and wigwag protection as with gate protection.

The application as launched by the railway company emphasizes the economies and costs attached to the bell and wigwag. The economies in maintenance costs are very considerable, but the matter must not be looked at from this standpoint alone; safety is the most essential factor, and if I did not believe that safety as well as economy attached to the use of bells and wigwags, I would be of the opinion that the gates should continue.

April 26, 1937.

ORDER No. 54237

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," under Section 257 of the Railway Act, for authority to remove the gates installed under Order No. 6232, dated February 12, 1909, and install bells and wigwags at the crossing of Ontario Street, Grimsby, Ontario.

File No. 9374

WEDNESDAY, the 28th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Welland, April 19, 1937, in the presence of counsel for the applicants and representatives of the town of Grimsby and the township of North Grimsby, and what was alleged,—

It is ordered: That the application be, and it is hereby, refused.

H. GUTHRIE,
Chief Commissioner.

Application of the Canadian National Railways for an Order authorizing the removal of track, constructed under Order No. 32958, dated October 3, 1922, connecting its line with certain private sidings of Carroll Bros., at Sherks, Ont.

File No. 30135

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the Canadian National Railways for an order authorizing the removal of certain tracks connecting its line with certain private sidings of Carroll Bros. at Sherks, Ont. The application was heard at Toronto on April 20, 1937, in the presence of counsel for the applicant and for Carroll Bros.

By an Order No. 32958, dated October 3, 1922, the applicant was ordered to construct, maintain and operate a line of railway or siding for Carroll Bros. near Sherks, Ont., as shown upon the plan and book of reference on file with the Board under File No. 30135. It was provided by this order that Carroll Bros. should deposit to the credit of the Board of Railway Commissioners for Canada in some chartered bank the sum of \$6,833, being the sum estimated as necessary to defray all expenses of constructing and completing the said spur or track as provided by section 185 of the Railway Act. It was further provided that in the event of the proposed work costing more or less than the above sum, any difference was to be adjusted by the Board. It was further ordered that the railway company was to repay or refund to the applicants, their successors or assigns by way of rebate, \$2 per car in respect of the carriage of traffic for

Carroll Bros. over the said spur until the said sum of \$6,833, or such other sum as might be expended on the said work, had been repaid by the railway company to Carroll Bros., their successors or assigns. The railway was ordered to complete this work within three months of the date of the order, but the date of completion was subsequently extended to May 1, 1923, by Order No. 33304.

On October 20, 1922, Carroll Bros. deposited \$6,833 to the credit of the Board of Railway Commissioners of Canada in the Imperial Bank of Canada, and this amount was subsequently paid out to the applicant by order of the Board No. 39889, dated November 18, 1927. During the year 1927 some dispute arose between the applicant and Carroll Bros. as to the cost of the said spur. The applicant contended that the total cost of the spur was \$10,830.64. This dispute was subsequently arranged by agreement between the parties under which agreement Carroll Bros. paid to the applicant a further sum of \$2,000 making a total advance by Carroll Bros. of \$8,830.64.

Carroll Bros. owned and operated a sand and gravel property near Sherks and the same was equipped with the necessary machinery. The above spur was constructed for the purpose of serving this property and the amount paid for the construction of the said spur by Carroll Bros. was to be rebated by the railway company, as provided in the above mentioned order and as authorized by section 185 of the Railway Act.

Section 185, which makes provision for the construction of industrial spurs at the expense of the owner of the property who is required to deposit in some chartered bank a sum which the Board deems sufficient to defray the expenses of constructing and completing the spur, also provides by subsections 2, 3 and 4 as follows:—

“2. The amount so deposited shall, from time to time, be paid to the company upon the order of the Board, as the work progresses.

“3. The aggregate amount so paid by the applicant in the construction and completion of the said spur or branch line shall be repaid or refunded to the applicant by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the said spur or branch line.

“4. Until so repaid or refunded, the applicant shall have a special lien for such amount upon such branch line, to be reimbursed by rebate as aforesaid.”

Carroll Bros. continued to operate the property until October 1, 1934, and on February 14, 1935, Carroll Bros. notified the applicant by letter in the following terms: “We discontinued our business at Sherks on October 1, 1934, so we will not need the siding any longer.” After receipt of the said letter the applicant instructed their Industrial Commissioner to make a report upon the situation, and the Industrial Commissioner reported as follows:—

“Carroll Bros. are dismantling their plant at Sherks and I understand have sold machinery, etc., on lots 8 and 9 to Dwyer Metal Company of Port Colborne, and which purchase includes the privately owned rail in the sidings.”

Up to date the amount credited to Carroll Bros. by way of rebate as provided by the order above mentioned is the sum of \$4,000, leaving a balance of \$4,830.64, for which amount Carroll Bros. claim to be entitled to a lien upon the said spur as provided by subsection 4 of section 185. The firm of Carroll Bros. consisted of two brothers, both of whom are now dead. William E. Carroll prior to his death succeeded to the whole interest in the property. William E. Carroll subsequently died and the Manufacturers and Traders Trust Company of Buffalo, N.Y., claim to be trustees under the will of the late William E. Carroll and as such claim to be entitled to a lien upon the above railway line for the amount above mentioned. It was stated at the hearing that the property

had been transferred by Carroll Bros. to the Dwyer Metal Company of Port Colborne, and it was intimated by counsel for the above named Trust Company that a suit in regard to this property was now pending against the Dwyer Metal Company, but it was not intimated that there was any likelihood that the plant on this property would again be put into operation. The only inference to be drawn from the evidence submitted at the hearing was that the property had finally been dismantled and abandoned so far as the present claimants are concerned, and that no freight shipments had been made from this property upon the applicant's spur since October 1, 1934.

The only method by which repayment can be obtained by the owner of a business or industry from a railway company for the construction of a spur under section 185, is by way of rebate as fixed by the Board. In the present instance the Board fixed the rebate at the rate of \$2 per car. If the owner of the industry decides to abandon the undertaking and cease making further freight shipments, I think it may be taken for granted that he has also decided to forego his claim for repayment of the money advanced for construction purposes. I do not think the owner can cease making freight shipments and at the same time maintain a lien upon the line of railway for the amount due to him upon construction account. The owner must either continue to recover his money by rebate or forego his lien upon the property.

A person entitled to a lien upon property which can only be discharged or satisfied in a particular manner through some action of the holder of the lien himself, cannot by his own acts or conduct render the discharge or satisfaction of the lien impossible of performance in the only manner contemplated by the statute under which the lien was originally constituted. I think the written notice sent to the applicant by the firm of Carroll Bros. on February 14, 1935, conveyed a definite intention to abandon any claim for lien which the firm might otherwise have possessed. This notice coupled with the fact that the firm had dismantled the plant and sold the machinery, including the privately owned rails in the siding, leads me to the conclusion that the firm intended to abandon and waive any claim to lien. At any rate whether or not these acts establish an intention to abandon the lien they make it impossible of performance in the only way provided by the statute. In support of my opinion I quote from *Helsbury's Laws of England*, Vol. 20, 2nd Ed., at p. 588:—

“It appears to be settled that both vendor and purchaser lose their liens if by their own act or default the contract is not completed.”

See also *Hepworth Silica Pressed Brick Co. v. G.T.R.*, 18 Can. Ry. Cases, p. 9 at p. 16, where section 185 was discussed and it was held that if “traffic does not move over the spur after construction the loss is on the trader and not on the carrier.”

Under the above circumstances I think an order should be made authorizing the applicants to remove this spur line of railway to the Carroll Bros. property. If at any future time the industry formerly located on this property should be re-established and put in operation either by the original owners or their successors or assigns, an application may be made to the Board for a further order in regard to the matter, and in making any subsequent order the Board should take into consideration the unearned balance still due by way of freight rebate and should make an order which would be fair and equitable as between all parties concerned. The order to be made herein should be without prejudice to the right, if any, of the Manufacturers and Traders Trust Company of Buffalo, N.Y., as trustees of the estate of Carroll Bros. to take action as it may deem proper in the courts for any relief which the applicants claim to be entitled to in respect of the matters above set out.

April 30, 1937.

The Assistant Chief Commissioner and Commisisoner Stone concurred.

ORDER No. 54247

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for an Order authorizing the removal of track, constructed under Order No. 32958, dated October 3, 1922, connecting their line with certain private sidings of Carroll Brothers about one mile west of Sherkston, Ontario.

File No. 30135

FRIDAY, the 30th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Toronto, April 20, 1937, in the presence of counsel for the applicants and Carroll Brothers, and what was alleged; and upon reading the further written submissions filed,—

It is ordered:

1. That the applicants be, and they are hereby, authorized to remove the spur line of railway constructed to the property of Carroll Brothers at Sherkston, Ontario, under the said Order No. 32958, dated October 3, 1922.

2. That if at any future time the industry formerly located on the said property should be re-established and put in operation either by the original owners or their successors or assigns, an application may be made to the Board for a further order in regard to the matter.

3. That this order be without prejudice to the right, if any, of the Manufacturers and Traders Trust Company of Buffalo, New York, as trustee of the estate of Carroll Brothers, to take action as it may deem proper in the courts for any relief which the applicants claim to be entitled to in respect of the matters herein.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54202

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 20th day of April, A.D. 1937.

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 825 of Tariff C.R.C. No. E-1829, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 825 of Tariff C.R.C. No. E-1829, approved herein, are as follows:—

Item 825 From	Cents per 100 pounds	
	Billed	Normal
Berwick, N.S.	16.8	21
Port William, N.S.	16.8	21
Sheffield Mills, N.S.	16.8	21
Waterville, N.S.	16.8	21
Aylesford, N.S.	18	22.5
Kingston, N.S.	18	22.5
Lakeville, N.S.	18	22.5
Lawrencetown, N.S.	19	23.5

F. NAP. GARCEAU,
Deputy Chief Commissioner.

ORDER No. 54203

*In the matter of tariffs and supplements to tariffs filed under the provisions of
the Maritime Freight Rates Act. File No. 34822.2*

TUESDAY, the 20th day of April, A.D. 1937.

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 825 of Supplement No. 42 to Tariff C.R.C. No. E-1829, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Dominion Atlantic Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal tolls for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Item No. 825 of Supplement No. 42 to Tariff C.R.C. No. E-1829, approved herein, is as follows:—

Item 825 From	Cents per 100 pounds	
	Billed	Normal
Wolfville, N.S.	16.8	21

F. NAP. GARCEAU,
Deputy Chief Commissioner.

ORDER No. 54212

In the matter of the application of the Thousand Islands Bridge Authority, under Section 323 of the Railway Act, for approval of by-law dated April 17, 1937, authorizing Leon Schwerzmann, Secretary of the said Thousand Islands Bridge Authority, to file tentative Schedule of Tolls No. 1, dated April 15, 1937, as the tariff of the tolls to be charged in respect of the bridges owned or operated by the Authority, and to do all things required by the Railway Act to procure the approval of the said Schedule by the Board. File No. 40206.1

FRIDAY, the 23rd day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*
G. A. STONE, *Commissioner.*

It is ordered: That the said by-law of the Thousand Islands Bridge Authority, dated April 17, 1937, on file with the Board under file No. 40206.1, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54213

In the matter of the application of the Thousand Islands Bridge Authority, hereinafter called the "Applicant," under Section 41A of the Railway Act, for approval of proposed schedule of tolls to be charged in respect of the bridges of the Applicant between Ivy Lea, Ontario, and Collins Landing, New York.

File No. 40206.1

FRIDAY, the 23rd day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon reading the application,—

It is ordered:

That the proposed schedule of tolls to be charged in respect of the bridges of the applicant between Ivy Lea, in the province of Ontario, and Collins Landing, in the state of New York, on file with the Board under file No. 40206.1, be, and it is hereby, provisionally approved upon the conditions following, namely:—

(1) That before any tolls be charged or collected by the applicant, or any tariff or tariffs therefor becomes or become effective, the same shall be subject to revision by the Board.

(2) That a copy of the said tariff of tolls so finally approved by the Board be served upon the municipalities of the counties of Leeds and Lansdowne, in the province of Ontario, Dominion of Canada, and upon the County Officer of the county of Jefferson, in the state of New York, United States of America, before becoming effective.

(3) That this order shall be subject to such further or other order as under the circumstances may be deemed necessary by the Board.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54215

In the matter of the application of the Central Vermont Railway Company, under Section 323 of the Railway Act, for approval of by-law dated April 13, 1937, authorizing H. A. Carson, General Freight Agent, J. L. Dempsey, Assistant General Freight and Passenger Agent, and A. W. Manchester, Chief of Tariff Bureau, or any of them to prepare and issue freight tariffs of the tolls to be charged for all traffic carried by the Company upon its railway or in its vessels; and authorizing T. E. P. Pringle, General Passenger Agent, and J. L. Dempsey, Assistant General Freight and Passenger Agent, or either of them, to prepare and issue from time to time passenger tariffs of the tolls to be charged for all traffic carried by the Company upon its railway or in its vessels.

File No. 1036

FRIDAY, the 23rd day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Central Vermont Railway Company, dated April 13, 1937, on file with the Board under file No. 1036, be, and it is hereby, approved.

2. That orders numbered 207, 12348, 13948, 27451, 29783, and 49443, dated respectively October 27, 1904, November 21, 1910, June 14, 1911, July 19, 1918, June 17, 1920, and January 24, 1933, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54220

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 24th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items specified below of Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items of Tariff C.R.C. No. E-4808, approved herein, are as follows, namely:—

Item No.	Cents per 100 pounds
160 To St. Stephen, N.B.	18
190 From Saint John, N.B.	20
St. Stephen, N.B.	20
West Saint John, N.B.	20
250 To Fort William, Ont.	60½
Montreal, Que.	51½
Port Arthur, Ont.	60½
Toronto, Ont.	61
West Fort William, Ont.	60½
300 To Saint John, N.B.	22½
310 To St. Stephen, N.B.	18
490 To Montreal, Que.	31
520 To Saint John, N.B.	12½
530 To West Saint John, N.B.:	
For local delivery	6½
For furtherance	6
580 To Kingston, Ont.	32
Toronto, Ont.	31½
590 To Fort William, Ont.	62½
Port Arthur, Ont.	44½
Riviere du Loup, Que.	32½
610 To Fredericton, N.B.	14½
620 To	C.L. Any Quantity
Saint John, N.B.	16½
West Saint John, N.B.	14
830 To Saint John, N.B.	15
	20

Item No.		Minimum Weights	
		24,000 lbs.	60,000 lbs.
860 To	Edmundston, N.B.	29½	27
	Riviere du Loup, Que.	25	..
	St. Stephen, N.B. . . . .	..	15
2930 From	Limestone, N.B.		4
	Morrill, N.B.		4

		Minimum Weights			
		30,000 lbs.	40,000 lbs.	60,000 lbs.	80,000 lbs.
3900 To	Belleville, Ont. . . . .	..	39	34	31½
	Brantford, Ont. . . . .	..	35	..	32½
	Brockville, Ont.	39	..	33	31
	Chatham, Ont. . . . .	..	..	40½	..
	Chesterville, Ont.	40	..	..	..
	Cornwall, Ont.	39	..	33	31
	Drummondville, Que.	39½	..	..	..
	Fort William, Ont. . . . .	..	..	37	35
	Garthby, Que. . . . .	..	35½	..	..
	Grand Mere, Que.	39½	..	..	..
	Guelph, Ont. . . . .	..	34½	..	..
	Hamilton, Ont. . . . .	..	..	33	31
	Kingston, Ont. . . . .	..	..	32½	30½
	Kitchener, Ont. . . . .	..	35	..	..
	Levis, Que. . . . .	..	..	31½	27½
	Lindsay, Ont. . . . .	..	36½	..	..
3905 To	Listowel, Ont. . . . .	..	41	..	..
	London, Ont. . . . .	..	..	33½	31
	Magog, Que.	37½	..	..	..
	Megantic, Que.	41	..	..	..
	Montreal, Que. . . . .	..	..	30½	25
	Niagara Falls, Ont. . . . .	..	35½	33	..
	Orillia, Ont. . . . .	..	36½	..	..
	Oshawa, Ont. . . . .	..	35	33½	31
	Ottawa, Ont. . . . .	..	..	33	31
	Owen Sound, Ont. . . . .	..	38½	36½	..
	Parry Sound, Ont. . . . .	..	49	..	..
	Pembroke, Ont.	44	..	..	..
	Perth, Ont.	42½	..	..	..
	Peterboro, Ont. . . . .	..	35½	..	..
	Port Arthur, Ont. . . . .	..	..	37	35
	Quebec, Que. . . . .	..	..	30½	27
3910 To	St. Catharines, Ont. . . . .	..	35½	33	..
	St. Thomas, Ont. . . . .	..	39½	..	..
	Sarnia, Ont. . . . .	..	43	36½	34
	Sault Ste. Marie, Ont.	58½	..	36	34
	Shawinigan Falls, Que.	39½	..	..	..
	Sherbrooke, Que.	38½	..	..	..
	Simcoe, Ont. . . . .	..	38	..	33½
	Smiths Falls, Ont.	41	..	..	..
	Thetford Mines, Que.	44½	35½	..	..
	Thorold, Ont. . . . .	..	..	33	31
	Toronto, Ont. . . . .	..	..	33½	31
	Trois Rivières, Que. . . . .	..	..	31	26
	Tweed, Ont. . . . .	..	44	..	..
	West Fort William, Ont. . . . .	..	..	37	35
	Windsor, Ont. . . . .	..	43	36½	34

Item No.		Cents per 100 pounds	
		14½	30
3940 To	Fredericton, N.B.	14½	30
	Perth Jct., N.B.	30	..
	Woodstock, N.B.	20	..

4000

The normal rates are those
shown in Scale "J" of
Tariff C.R.C. No. E-4221

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54221

In the matter of the application of the Bell Telephone Company of Canada, hereinafter called the "Applicant Company," for approval of revised Individual Exchange Tariffs.

Case No. 955.161

MONDAY, the 26th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Asst. Chief Commissioner.*

Upon its appearing that the signing of each individual revised sheet would be an onerous undertaking, and that approval by an order of the Board is advisable,—

It is ordered: That the Individual Exchange Tariffs of the applicant company effective May 1, 1937, as listed in Filing Advice No. 2512 dated April 21, 1937, on file with the Board, be, and they are hereby, approved.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54225

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 26th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 30 to Tariff C.R.C. No. E-1906

" 25 " " " " E-2047

" 31 " " " " E-2248

" 4 " " " " E-2428

" 1 " " " " E-2541

" 4 " " " " E-2564

" 5 " " " " E-2564

Item 30 of Tariff C.R.C. No. E-2571

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54238

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 29th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. 1038, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1038, approved herein, are as follows:—

Miles	Rates in Cents per 100 pounds	Miles	Rates in Cents per 100 pounds
5.....	5½	65.....	16
10.....	6½	80.....	17½
15.....	9½	100.....	18½
20.....	11½	125.....	21½
30.....	12½	150.....	24
40.....	14	175.....	25
45.....	14½	200.....	26
50.....	15		

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54239

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 29th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1036, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1036, approved herein, are as follows:—

Item	From		Rates in cents per 100 pounds
1	Halifax, N.S.		43
	Yarmouth, N.S.		43½
2		The Halifax	
		rates covered by previous	
	From	To	order or orders will apply
3	Halifax, N.S.	Toronto, Ont.	33
	Yarmouth, N.S.	Toronto, Ont.	34
	Yarmouth, N.S.	Montreal, Que.	33
4	Guelph, Ont.		45½
	Simcoe, Ont.		45
	Toronto, Ont.		40
5			41½

One and one-half cents per 100 pounds to be deducted on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54240

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 29th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. 1039, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1039, approved herein, are as follows:—

To	Rates in cents per 100 pounds
Fredericton, N.B.	20½
Grand Falls, N.B.	22½
Hartland, N.B.	26
Woodstock, N.B.	22½

One and one-half cents per 100 pounds to be deducted on account of water haul.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54241

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 29th day of April, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in items Nos. 3900A and 3910A of Supplement No. 2 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 3900A and 3910A of Supplement No. 2 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

Item	From	To	Cents per 100 pounds Minimum 30,000 pounds
3900A	Saint John, N.B.	Cornwall, Ont.	32
		Grand Mere, Que.	33½
3910A	Saint John, N.B.	Shawinigan Falls, Que.	33½

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54243

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.13

THURSDAY, the 29th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1041, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1041, approved herein, are as follows:—

	Rates in Cents per 100 pounds Lake and Rail-All Rail	
Sault Ste. Marie, Ont. . . . .	..	54½
Fort William, Ont.	} 48½	54
Port Arthur, Ont.		
West Fort William, Ont.		

One and one-half cents per 100 pounds to be deducted on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54245

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

THURSDAY, the 29th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in Tariff C.R.C. No. 755, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Canadian Pacific Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Canadian Pacific Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 755, approved herein, are as follows:—

From	Cents per 100 pounds			
	To			To
	Cornwall, Ont.	billed normal		Ottawa, Ont.
				billed normal
St. Modeste, Que.	11	12½		12 13½
Duval, Que.	11	12½		12 13½
Whitworth, Que.	11	12		12 13
St. Honore, Que.	11	12		12 13
Notre Dame du Lac, Que.	11	11½		12 12½
Ste. Rose, Que.	11	11½		12 12½
Vauban, Que.	11	12		12 13
St. Louis du Ha Ha, Que.	11	12		12 13
Cabano, Que.	11	12		12 13
Edmundston, N.B.	9½	10½	9	9½
St. Hilaire, N.B.				
Baker Brook, N.B.				
Caron Brook, N.B.				
Claire, N.B.				
Ledges, N.B.				
Little River Mills, N.B.				
Connors, N.B.				

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54244

In the matter of the application of F. W. Thompson, Agent, hereinafter called the "Applicant," on behalf of the Canadian National Railways, the Canadian Pacific and the Northern Alberta Railways Companies, for permission to amend Note 1 on page 3 of Canadian Freight Association Tariff C.R.C. No. 320, on less than statutory notice, to restrict the application of reshipping rates published thereon on barley sprouts and bran to reshipments made by the Provincial Department of Agriculture.

File No. 27612.152

FRIDAY, the 30th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

Upon consideration of what is set out in the application, and the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the applicant be, and he is hereby, granted leave to issue and file on one day's notice a supplement to the said tariff amending Note 1 on page 3 thereof to read:—

"Rates on barley sprouts and bran will not apply from mills but only when reshipped by Provincial Department of Agriculture from original destination (after having moved by rail from a mill) to a new destination."

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 561

In the matter of the consideration of the question of the disposal of liquid residue from compressed gas storage tanks, gas tanks attached to passenger or other rolling stock, gas service pipe lines, compressed gas tanks, cylinders or bottles permanently carried on cars, portable compressed gas cylinders or any other container or pipe line owned or operated by railway companies subject to the jurisdiction of the Board, or other person or persons on railway property, in such manner as to prevent the escape or entrance of such liquid into sewers, drains, rivers, creeks, or waterways.

File No. 1717.1.5

TUESDAY, the 27th day of April, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Asst. Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*J. A. STONEMAN, *Commissioner.*G. A. STONE, *Commissioner.*

Upon reading the submissions filed on behalf of the Temiskaming and Northern Ontario Railway, Algoma Central and Hudson Bay Railway Company, Pere Marquette Railway Company, New York Central Railroad Company, and the Railway Association of Canada; and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That free liquid residue from compressed gas storage tanks; gas tanks attached to passenger or other rolling stock; gas service pipe lines; compressed gas tanks, cylinders, or bottles permanently carried on cars; portable compressed gas cylinders, or any other container or pipe line owned or operated by a railway company subject to the jurisdiction of the Board, or other person or persons on such railway property, must be disposed of in such manner as to prevent the escape or entrance of such liquid into sewers, drains, rivers, creeks, or waterways.

2. That the regulation herein prescribed shall not apply in connection with the disposal of water used for hydraulic pressure tests of tanks on passenger equipment and refrigerator cars, and portable compressed gas cylinders, after free liquid residue has been drained therefrom.

H. GUTHRIE,
Chief Commissioner.

 CIRCULAR No. 240

April 19, 1937.

Flag protection by member of train crew against switching movements over certain highway crossings.

File No. 25434.8

I am directed by the Board to inform railway companies subject to its jurisdiction that where instructions require that all switching movements over a highway crossing shall be protected by a member of the train crew, these instructions include the movements of the engine over the crossing either before, during or after the switching movements take place.

By order of the Board.

P. F. BAILLARGEON,
Secretary.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR MARCH, 1937

Railway accidents.....	158	with 15 killed and	154 injured
Railway accidents at highway crossings.....	18	with 11 killed and	22 injured
	<u>176</u>	<u>26</u>	<u>176</u>
		Killed	Injured
Passengers.....		1	23
Employees.....		5	115
Others.....		20	38
		<u>26</u>	<u>176</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

No. of
Accidents

NOVA SCOTIA

- 1 Auto truck—Ran into side of train; disregarded wig-wag signal. Licence N.S. C-13-914.
- 1 Auto truck—Drove on to crossing in front of train and was struck. (Licence not given.)
- 1 Auto truck—Attempted to beat train over crossing. Licence N.S. C-13-500.

QUEBEC

- 2 Automobile—Driver failed to stop for crossing. Licences Que. S1-008; Que. T-4716.

ONTARIO

- 2 Automobile—Ran into side of train. Licences Ont. 28-E-19; Ont. 31-K-12.
- 1 Automobile—Struck by track motor car. Licence Ont. 4-N-179.
- 2 Automobile—Drove on to crossing in front of approaching train and was struck. Licences Ont. 1-J-662; Ont. 26-M-5.
- 1 Automobile—Ran into side of train; excessive speed, disregarded bell and wig-wag signal. Licence Ont. 39-J-70.
- 1 Automobile—Ran into side of train; defective brakes. Licence Ont. 76-M-91.
- 1 Auto truck—Attempted to beat train. Licence Ont. C-7556.
- 1 Auto truck—Drove on to crossing in front of approaching train. Licence Ont. 24-563-C.

MANITOBA

- 1 Pedestrian—Walked into path of train.

SASKATCHEWAN

- 1 Automobile—Driver apparently suffering from amnesia; stopped auto on track and was struck by train. Licence (1936) Sask. 66-573.

BRITISH COLUMBIA

- 1 Automobile—Struck switchman flagging crossing. Licence B.C. 75-576.
- 1 Automobile—Driver failed to heed warning signals sounded by train and drove on to crossing in front of train. Licence B.C. 59-481.

Of the 18 accidents at highway crossings, 15 occurred at Unprotected Crossings, and 3 at Protected Crossings. Eleven of the accidents occurred during the daylight hours, and seven at night.

APRIL 28, 1937.

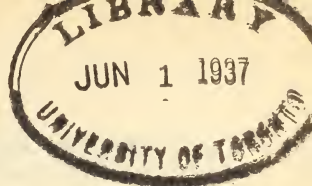
SUMMARY OF ORDERS ISSUED BY THE BOARD

- 54135. April 2—Approving plan showing details of station building to be erected by the C.N.R. at Sanmaur, Quebec.
- 54136. April 1—Relieving the C.P.R. from maintaining cattle guards at certain points on its Windsor Subdivision, Ontario.
- 54137. April 2—Approving Traffic Agreement between the Bell Telephone Company of Canada at the Commissioners for the Telephone System of the Municipality of Flos.
- 54138. April 2—Approving under Maritime Freight Rates Act, sec. 3, sub-sec. 3, tolls published in Tariff filed by the Dominion Atlantic Railway Company under sec. 9.
- 54139. April 2—Declaring C.P.R. crossing at Primrose Crossing near Moose Jaw, Sask., protected to the satisfaction of the Board.
- 54140. April 2—Approving Traffic Agreement between the Bell Telephone Company of Canada and the Commissioners for the Telephone System of the Municipality of the Township of Moore.
- 54141. April 3—Authorizing the C.N.R. to install an automatic bell and wigwag at Bear Cliff Crossing, mileage 13+03 Chester Subdivision, at Hubley, N.S.
- 54142. April 3—Relieving the C.N.R. from maintaining fences at certain points on their Cascapedia Subdivision, Quebec.
- 54143. April 3—Approving Traffic Agreement between the Bell Telephone Company of Canada and the Capreol Telephone Co. Ltd.
- 54144. April 3—Approving under Maritime Freight Rates Act, sec. 3, sub-sec. 3, tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54145. April 3—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in Tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54146. April 3—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in Supplement to Tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54147. April 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54148. April 5—Authorizing the C.N.R. to install an automatic bell and wigwag at highway crossing just east of Waverley Station, N.S.
- 54149. April 5—Requiring the City of St. Thomas, Ont., to install two flood lights one on each side of crossing of Highway No. 4 by the Pere Marquette Railway, at mileage 1+10 St. Thomas & Walkerville Subdivision.
- 54150. April 5—Authorizing the C.N.R. to install double bells and wigwags at the crossing of the highway at Brookfield, N.S.
- 54151. April 5—Declaring the C.N.R. crossing at mileage 3 Campbellford Subdv., near Corbyville, Ont., protected to the satisfaction of the Board.
- 54152. April 3—Approving Traffic Agreement between the Bell Telephone Co. of Canada and the Commissioners for the Telephone System of the Municipality of the Township of Erin.
- 54153. April 6—Amending Order No. 52045 dated June 25th, 1935, to provide that the maintenance cost of the wigwag signal at the crossing of Adelaide St. by the C.N.R. in the Village of Mount Brydges, Ont., now be borne and paid by the Dept. of Highways for Province of Ontario.
- 54154. April 6—Approving Traffic Agreement between the Bell Telephone Co. of Canada and the Millbrook Rural Telephone Co. Ltd.
- 54155. April 5—Approving Traffic Agreement between the Bell Telephone Co. of Canada and the Farmers Telephone Company.
- 54156. April 8—Approving Article 9 of the by-laws of the Railway Express Agency, Inc., authorizing the Traffic Manager to prepare and issue tariffs of the tolls to be charged for all traffic carried by the Corporation.
- 54157. April 10—Authorizing the Dept. of Roads, Quebec, to construct a diversion of the Trans-Canada Highway on the south side of the C.P.R. and to close certain level crossings over the C.P.R. between Berthier and Pointe du Lac, Que.
- 54158. April 7—Authorizing the C.N.R. to construct their railway across road allowance near Innisfree, Alta.
- 54159. April 9—Declaring the C.P.R. crossing one mile west of Payne Station, Ont., protected to satisfaction of the Board.
- 54160. April 9—Approving proposed temporary diversion of the C.N.R. main line tracks and temporary diversion of Highway No. 31 at Morrisburg, Ont.
- 54161. April 10—Requiring the C.P.R. and the C.N.R. to re-establish farm crossing on original Lot 13 of Official Cadastre of the Parish of Pointe Clair, at Beaurepaire, in the Town of Beaconsfield, Quebec.

- 54162. April 10—Amending Orders Nos. 53433 and 53491 *re* subway under the tracks of the C.N.R. at Eighteenth Street, New Toronto, and apportioning the cost of construction and maintenance thereof.
- 54163. April 10—Authorizing the C.P.R. to construct a connection with the International Coal & Coke Co. Ltd. at Coleman, Alta.
- 54164. April 10—Requiring the Dept. of Highways for Ontario to erect flood lights at the crossing of Provincial Highway near Pelton, Ontario, Pere Marquette Ry.
- 54165. April 12—Stipulating certain conditions in respect of works authorized by Order No. 53487 *re* erection of telephone and plant in the City of Ottawa by the Bell Telephone Co. of Canada.
- 54166. April 12—Authorizing the Bell Telephone Co. of Canada to erect lines of telephone in the City of Ottawa, and stipulating conditions in respect thereof.
- 54167. April 12—Authorizing Cedars Rapids Transmission Co. Ltd., to construct an additional transmission line from Cedars Rapids, Que., to Cornwall, Ont.
- 54168. April 14—Authorizing the C.N.R. to increase rate on coffee, condensed; milk, condensed or evaporated, powdered or flaked, straight or mixed carloads, from Truro, N.S., to Fort William, Port Arthur, etc.
- 54169. April 12—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54170. April 12—Authorizing the Dept. of Public Works for Alberta to construct highway crossing over the Northern Alberta Railways in Sec. 21-83-4, W6thM., Alberta.
- 54171. April 12—Approving plan showing proposed inoperative signals at the crossing of the C.N.R. by the C.P.R. at Fergus, Ont.
- 54172. April 12—Approving Service Station Contract between the Bell Telephone Company of Canada and Alex. Herron.
- 54173. April 12—Authorizing the Dept. of Public Works for Alberta to construct a highway crossing over the C.N.R. at Legal Siding.
- 54174. April 13—Amending Order No. 54045 approving of tolls published in Tariff C.R.C. No. E-4790 filed by the C.P.R. under provisions of the Maritime Freight Rates Act.
- 54175. April 13—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to Tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54176. April 13—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54177. April 13—Declaring the crossing of Millway St., Lachute, Que., by the C.P.R. protected to the Board's satisfaction so long as speed limitation of ten miles an hour is in effect.
- 54178. April 13—Approving plan filed by the Sandwich, Windsor & Amherstburg Railway Co. showing proposed installation of crossing signals at the crossing of the New York Central Railroad in the Town of Amherstburg, Ontario.
- 54179. April 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Supplement to Tariff filed by the C.P.R. under sec. 9.
- 54180. April 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Supplement to Tariff filed by the C.N.R. under sec. 3.
- 54181. April 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Tariff filed by the C.N.R. under sec. 3.
- 54182. April 14—Declaring the Lake Erie & Northern Railway crossing at Bloomsberg Stop, Ontario, protected to the satisfaction of the Board.
- 54183. April 14—Declaring the C.N.R. crossing at Beach Road, near Stoney Creek, Ontario, protected to satisfaction of the Board.
- 54184. April 14—Authorizing the C.N.R. to construct siding for Continental Can Co. of Canada, Ltd., St. Laurent, Que., across certain streets.
- 54185. April 14—Authorizing the C.P.R. to construct a branch line of railway to serve I. I. Selig, Montreal, Que.
- 54186. April 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co., under sec. 9.
- 54187. April 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.N.R. under sec. 3.
- 54188. April 14—Authorizing the C.P.R. to construct extension to branch line to serve Monarch Coal Mining Co. Ltd., near Kneehill Yard, Alta.
- 54189. April 15—Authorizing the Dept. of Roads of Quebec to construct a highway crossing of the Montmorency Branch of the C.N.R. at village of Charlesbourg, Quebec.

- 54190. April 15—Amending Order No. 46272 requiring the C.P.R. to install bell and wigwag at Main St. crossing near Milverton Station, Ont., to provide that portion of maintenance cost at present paid by County of Perth be now borne by Ontario Dept. of Highways.
- 54191. April 16—Approving location and details of station building erected at Minto, N.B. by the C.P.R. to replace building destroyed by fire.
- 54192. April 15—Authorizing the Dept. of Public Works for Alberta, to construct highway crossing over the C.P.R. just west of the townsite of Blairmore.
- 54193. April 16—Authorizing the C.N.R. to install double bells and wigwags at second crossing north of Stayner, Ontario.
- 54194. April 17—Permitting the Quebec Central Railway Co. to publish and file on five days' notice, a reissue of Tariff C.R.C. No. 1109, to correct the rates to Barton, Vermont.
- 54195. April 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Tariff filed by the Canadian Pacific Railway Co. under sec. 9.
- 54196. April 17—Amending Order No. 50987 dated May 3, 1934, authorizing the Dept. of Public Works for British Columbia to divert the public highway and construct an overhead crossing of the track of the C.P.R. at mileage 43·73 Nelson Subdivision.
- 54197. April 20—Approving revised location of portion of C.P.R. Mountain Subdivision, British Columbia.
- 54198. April 19—Authorizing the Council of the Municipality of St. Anaclet, County of Rimouski, Quebec, to construct highway crossing over the C.N.R. at mileage 15·20 Rimouski Subdivision.
- 54199. April 19—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54200. April 19—Authorizing the C.P.R. to construct a proposed branch line to serve the Superheater Co. Ltd., Sherbrooke, Que.
- 54201. April 19—Declaring the C.N.R. crossing of Ste. Anne Street, St. Hyacinthe, Que., protected to the Board's satisfaction.
- 54202. April 20—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.N.R. under sec. 3.
- 54203. April 20—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.N.R. under sec. 3.
- 54204. April 20—Amending Order No. 54178 dated April 13, 1937, *re* proposed installation of crossing signals at crossing of the New York Central Railroad by the Sandwich, Windsor & Amherstburg Railway at Amherstburg, Ont.
- 54205. April 20—Amending Order No. 53897 dated January 16, 1937, *re* regular highway crossings in lieu of private crossings of the C.P.R. at Mileage 70·7 and 70·8 Ste. Agathe Subdivision.
- 54206. April 20—Authorizing the Dept. of Highways for Ontario, to widen highway across C.P.R. south of Bolton, Ont.
- 54207. April 21—Extending the time within which bells and wigwags may be installed by the C.P.R. at crossing east of Dewdney Station, B.C.
- 54208. April 21—Approving Traffic Agreement and Supplement thereto between the Bell Telephone Co. of Canada and the Corporation of the Township of Tay.
- 54209. April 21—Authorizing the Dept. of Public Works for British Columbia to use the C.P.R. bridge over Fraser River at Mission, B.C., for a further period of five years.
- 54210. April 21—Authorizing the Dept. of Public Works for British Columbia to construct a highway crossing over the C.P.R. near Erickson, B.C.
- 54211. April 16—Approving restricted clearances at loading platform of the Canadian Nepheline Limited at Lakefield, Ont. (C.N.R.).
- 54212. April 23—Approving by-law of the Thousand Islands Bridge Authority authorizing their officer to file tentative Schedule of Tolls.
- 54213. April 23—Approving provisionally proposed schedule of tolls to be charged in respect of bridges of the Thousand Island Bridge Authority between Ivy Lea, Ont., and Collins Landing, N.Y.
- 54214. April 23—Declaring the Great Northern Railway crossing one mile south of Still Creek, B.C., protected to the Board's satisfaction.
- 54215. April 23—Approving by-law of the Central Vermont Railway Co. designating officials authorized to prepare and issue freight and passenger tariffs of tolls to be charged.
- 54216. April 23—Authorizing the C.P.R. to remove its station shelter at Ingersoll North, Ont.
- 54217. April 23—Approving location of C.N.R. portable station to be erected at Ottermere, Ontario.
- 54218. April 23—Approving location of the C.N.R. portable station to be erected at South Junction, Manitoba.

- 54219. April 23—Approving location of the C.N.R. portable station to be erected at Richan, Ontario.
- 54220. April 24—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under sec. 9.
- 54221. April 26—Approving Individual Exchange Tariffs of the Bell Telephone Company of Canada.
- 54222. April 24—Refusing application of the C.N.R. to remove gates at crossing east of Clarkson Station, Ontario.
- 54223. April 23—Refusing application of the Town of Port Colborne, Ontario, for relief from paying its proportion of maintenance cost of bell and wigwag installed at King St. crossing (C.N.R.).
- 54224. April 26—Declaring the C.N.R. crossing at Fifth Avenue, Ville St. Pierre Tramway Station, Que., protected to the Board's satisfaction.
- 54225. April 26—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54226. April 26—Authorizing the New York Central Railroad Co., to demolish station building at Petrolia, Ontario.
- 54227. April 27—Authorizing the Alberni Pacific Transport Company to construct an undercrossing under the Esquimalt & Nanaimo Railway at mileage 31·72 Port Alberni Subdv., Vancouver Island, B.C.
- 54228. April 26—Authorizing the C.N.R. to use and operate the Bridge over Red Deer River, on the Rosedale Coal Company's spur at Rosedale, Alta.
- 54229. April 26—Authorizing the C.N.R. to use and operate bridges over the Rosebud River at certain mileages on the Drumheller Subdivision, Alberta.
- 54230.
- 54231.
- 54232.
- 54233.
- 54234.
- 54235. April 28—Authorizing the C.P.R. to operate interlocking plant at the crossing of the Kettle Valley and the Canadian Northern Pacific Railways at Hope, B.C.
- 54236. April 27—Declaring the C.N.R. crossing near Grande Ligne Station, Quebec, protected to the Board's satisfaction.
- 54237. April 28—Refusing the application of the C.N.R. for authority to remove gates and install bells and wigwags at Ontario Street, Grimsby, Ontario.
- 54238. April 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Dominion Atlantic Railway Co., under sec. 9.
- 54239.
- 54240.
- 54241. April 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under sec. 9.
- 54242. April 28—Authorizing the C.N.R. to close highway crossing at mileage 7·9 Three Hills Subdv., Alberta.
- 54243. April 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, June 1, 1937

No. 5

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Application of the City of London, Ontario, the London and Port Stanley Railway Co., and the Canadian National Railways for an Order distributing the cost of the subways at Richmond and Wellington Streets in the City of London to the extent thereof not allocated by Order No. 51618 issued on December 21, 1934, between the Michigan Central Railroad Co. (New York Central Railroad Company, Lessee) and the London Street Railway, or such other parties as the Board may determine.

Files Nos. 16494 and 7264.

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

The above application was heard at the city of London on Wednesday, the 21st day of April, 1937, in the presence of counsel for the three applicants above named and also of counsel for the Michigan Central Railway Company (New York Central Railway Company, lessee), the London Street Railway Company and the Bell Telephone Company. In this application the applicants ask for an order distributing the cost of the subways constructed at Richmond and Wellington streets in the city of London to the extent not heretofore allocated by the orders of the Board.

By an order of the Board, dated December 5, 1930, No. 45907, made upon the application of the Canadian National Railways and the Corporation of the City of London, it was ordered that the Canadian National Railways construct a subway under its tracks on Richmond street in the city of London, as shown on the plans filed with the Board, and it was further ordered that the London Street Railway Company, the London and Port Stanley Railway Company, the Michigan Central Railway Company, the Public Utilities Commission of the City of London, the City Gas Company of London, and the Bell Telephone Company of Canada should move their utilities when requested to do so by the railway, and it was further ordered that the question of the apportionment of the cost of the said subway, including the cost of removing the public utilities, be reserved for further consideration of the Board; and a similar order of the Board, No. 45945, was made on December 16, 1930, in respect of the construction of a subway on Wellington street in the city of London.

After the construction of the said subways the Canadian National Railways and the Corporation of the City of London made an application to the Board for an order in respect of the apportionment of the cost of construction of the said subways on Richmond street and Wellington street, and of work incidental thereto, and on the 21st day of December, A.D. 1934, the Board made an order No. 51618, fixing the cost of the said subways incurred up to the end of the year 1933 at the sum of \$1,732,048, less the sum of \$65,992. By the said order the Board apportioned payment of the said sum as follows: By the Canadian National Railways, \$974,511; by the London and Port Stanley Railway Company, \$175,685; by the City of London, \$410,860; leaving a balance of \$65,992 to be apportioned at a later date. The order further provided that if any part of the said sum of \$65,992 was not thereafter imposed upon parties interested other than the Canadian National Railways, the London and Port Stanley Railway Company and the City of London, the amount thereof not so imposed should be distributed between the three last named parties in the same proportions as the amounts hereinbefore set out. It was further provided by the said order that any amounts expended during the years 1934 and 1935 to complete the said works, unless such expenditure were made for the exclusive benefit of one party, should be apportioned and paid as follows: Canadian National Railways, 49 per cent; London and Port Stanley Railway, 11 per cent; City of London, 34 per cent; and that distribution of the balance of 6 per cent be reserved for further consideration as between the Canadian National Railways, the London and Port Stanley Railway Company, the City of London, the New York Central Railway Company and the London Street Railway Company. It was further provided that if the share or portion thereafter found chargeable against the New York Central Railway Company or the London Street Railway Company should be less than the said 6 per centum that the difference should be distributed between the Canadian National Railways, the London and Port Stanley Railway Company and the City of London in the same proportions as the sum of \$1,732,048 was distributed by the said order.

It was stated by counsel for the Canadian National Railways that the amounts in respect of which the present application has been made is the sum of \$65,992 set apart in the above mentioned order and the further sum of \$22,000 which represents 6 per cent of the total expenditure upon the works during the years 1934 and 1935, which expenditure was approximately \$370,000. So that the total amount which the applicants asked to be appropriated in the present application is the sum of \$87,992. It was also stated by counsel for the railways that the total expenditure in 1934 and 1935 on the Richmond street subway was \$87,552.69.

It is to be noted that the order of the Board No. 51618 above mentioned, was made upon presentation to the Board of certain resolutions and motions adopted by the council of the Corporation of the City of London, by the directors of the London and Port Stanley Railway Company and of the London Railway Commission, who all consented to the terms of the said order.

It was stated upon the application that the discussion in regard to this whole project began about the year 1906 in the city of London. Conferences took place at London between all parties interested, which continued for a considerable period of time. These conferences and negotiations in the end resulted in an agreement being entered into on the 6th day of January, 1930, between the Canadian National Railways and the Corporation of the City of London. The agreement made provision for the construction of a new station at the city of London, and also provided for a number of grade separations more particularly shown upon the said plan. This agreement was approved by an Act of the Ontario Legislature, chapter 86 of the Statutes of 1930, and the city was authorized by the said Act to pass the necessary by-laws for carrying out the

terms and conditions of this agreement. The above agreement contained the following recitals:—

“Whereas the railway heretofore constructed its main line tracks through the said city of London and built a railway station in the said city for the accommodation of passengers, and established railway yards, team tracks and other railway facilities for the handling of business in the said city of London;

“And whereas the city has requested the railway to build a new station;

“And whereas the building of the said new station necessitates consideration and settlement of grade separation problems in the said city;

“And whereas the other works heretofore set forth and connected with the said grade separation problems are of mutual benefit to the city and the railway in the general scheme of grade separation—” etc.

Under the terms of the above agreement a new station building was to be constructed between Richmond and Wellington streets in the city of London, and the city was authorized to stop up and close the portions of streets mentioned in the said agreement and set out in schedule “B” annexed thereto, without observing the provisions or formalities prescribed by the Municipal Act relating to the stopping up of highways.

At the time the above agreement was entered into Richmond street was crossed by five tracks of the Canadian National Railways at level. A short distance south of this crossing Richmond street was again crossed at level by a track of the London and Port Stanley Railway. The London Street Railway at this time ran along Richmond street and crossed all these tracks, by a double line of street railway tracks at level. Diamond crossings had been installed here some years before. The crossing was protected by gates maintained by the Canadian National Railways. There were also derails in the tracks of the London Street Railway protecting the Canadian National tracks interlocked with the derails. It was provided in the agreement that any additional cost in the operation of these signals by reason of the presence of the London Street Railway should be borne by the London Street Railway.

The situation at Wellington street was somewhat different. The street railway did not run upon Wellington street. Wellington street was crossed by the tracks of the Canadian National Railways and also by the London and Port Stanley Railway Company and by the tracks of the Michigan Central Railway Company. At the present time the Michigan Central Railway Company operates into the city of London under an agreement made with the London and Port Stanley Railway Company in the year 1915. Prior to the year 1915 the Michigan Central Company did operate into London by its own trains over the London and Port Stanley Railway. The whole traffic of the Michigan Central Railway Company is now carried in and out of London by the London and Port Stanley Railway.

When application was first made to the Board in October, 1930, for an order directing the work to be performed at Richmond street, the London Street Railway filed a submission with the Board, submitting among other things that “A subway at Richmond street is not required for the operation of the Street Railway System of the city of London.” Later on, however, about the month of March, 1931, correspondence took place between the London Street Railway Company and the Canadian National Railways which rather indicated that the London Street Railway was still considering operation through the subway on Richmond street. On June 27, 1931, the London Street Railway gave definite notice to the Canadian National Railways that “the company would not lay its street car tracks through the Richmond street subway,” that it did not desire further to operate its railway through the subway at Richmond street; and,

as a matter of fact, the London Street Railway removed its rails and equipment from Richmond street and has entirely ceased operating through the said subway except by bus lines as hereinafter mentioned.

The Michigan Central Railway Company crossed Wellington street by two tracks but never had a track upon or across Richmond street. The Michigan Central Railway Company still owns or controls a short line on Bathurst street. This line commences at Burnett street and extends for three blocks east of Wellington street. This particular line of railway only extends for four blocks in all. Prior to 1930 the Michigan Central Railway had two tracks on Bathurst street commencing at Burwell street on the east and extending to Clarence street on the west and crossing Wellington street at grade, but it is claimed, on behalf of the Michigan Central Railway Company, that since the agreement with the London Railway Commission, made in 1915, the Michigan Central Railway has carried no traffic whatever into or out of London over its own tracks. It has all been carried by the London and Port Stanley Railway. At one time there was a Michigan Central passenger station in London but this was demolished some time ago and the Michigan Central does no passenger business at all to or from London. When the present scheme was undertaken the Michigan Central Railway Company agreed to stub its two tracks before crossing Wellington street, in order to reduce the cost of the subway. These tracks have been stubbed at Wellington street and do not now cross the subway. All Michigan Central traffic is now moved over the subway on the track of the London and Port Stanley Railway, and the Michigan Central Railway allege that they have no proprietary right or interest in the Wellington street subway or over any tracks which cross same.

From the above facts and allegations as presented to the Board it is apparent that the interest of the Michigan Central Railway Company in the construction of these subways is not great, although it will receive some benefit through the elimination of the Wellington street crossing and the general improvement of railway facilities which has resulted from these works. Under all the circumstances I consider that the Michigan Central Railway Company should only be asked to contribute a moderate amount towards the cost of the above works. While, on the other hand, the London and Port Stanley Railway Company has benefited to a considerable extent by the construction of these subways. I think the London and Port Stanley Railway Company should pay $12\frac{1}{2}$ per cent of the amount involved in this application, based upon the figures hereinbefore set out. The Michigan Central Railway Company should be asked to pay $7\frac{1}{2}$ per cent of the above amount.

I assume from what was stated at the hearing that the London Street Railway Company was originally sympathetic to the project of constructing a subway at Richmond street where the street railway company formerly operated. I think this was the attitude of the street railway company towards the whole undertaking until it served notice upon the Canadian National Railways in June, 1931, that it did not intend to continue its tracks through the subway on Richmond street. I also understand that the removal of the tracks and appliances on Richmond street by the London Street Railway was done at its own expense. However, the construction of the subway at Richmond street has relieved the street railway of certain expenditure in respect of the double track diamonds which were installed at this crossing under the order of the Board No. 24905, dated April 17, 1916, by which order the London Street Railway was ordered to pay to the city of London a sum equivalent to 7 per cent upon the cost of the installation of the said diamond crossings so long as the street railway company continued to operate over the tracks of the then Grand Trunk Railway Company. To this extent the street railway company will directly benefit by the Richmond street subway. I think the London Street Railway Company is a party interested or affected within the meaning of section 39 of the Railway Act.

The London Street Railway Company has now entered into an agreement with the city of London for the operation of certain bus lines throughout the city, and these bus lines pass under the subways both at Richmond and Wellington street and the applicants submit that the London Street Railway should be asked to make a contribution to these subways by reason of the use now made of them in the operation of their bus lines. Counsel for the Canadian National Railways argued that the London Street Railway Company should be required to make a contribution on account of the use which it makes of both subways through the operation of buses. Counsel cited in support of his argument the case of the C.P.R. vs. Toronto Transportation Commission, A.C. (1930), p. 686, and particularly at p. 711 dealing with the Main Street Bridge case. The Privy Council held in this case that the Board could compel the Toronto Transportation Commission to contribute to the cost of the Main street bridge notwithstanding the fact that at the time of the construction of the bridge the Toronto Transportation Commission did not utilize the bridge for the purpose of its street railway, but subsequent to the construction of the bridge obtained permission to lay its tracks upon it. In my view there is a broad distinction between a street railway and a bus line, although both may be engaged in the transportation of passengers upon city streets. The user of the street by a street railway is fixed and permanent upon certain streets. But a bus line is not so restricted. With the authority of the municipality a bus line may operate over any streets as it may deem proper or as occasion may require. The buses of the London Street Railway Company may at the present time operate through both the Richmond and Wellington street subways, while a month or two hence they may proceed by other routes, avoiding these subways altogether. If the London Street Railway should hereafter desire to operate its railway upon tracks laid through these subways, it would be required to make application to the Board for authority to cross the railways by means of these subways. The Board would fix the terms and conditions upon which such authority might properly be granted. The cost of constructing these subways would certainly be a matter for consideration by the Board. The London Street Railway Company has no franchise to operate buses in the city of London. It is merely a licensee of the city at an annual licence fee. It has no exclusive rights to operate buses in the city of London. As a matter of fact other bus companies, notably the Gray Coach Line and the Arrow Line, make use of the city streets and may, if they so desire, make use of the streets through these subways unless debarred from so doing by municipal or provincial authority. It must be borne in mind that the operation of motor vehicles upon municipal highways is not a matter that comes under the jurisdiction of this Board. I do not think that the Board has power to make an order against the London Street Railway Company in respect of the operation of buses through these subways, although it would be otherwise in the operation of the street railway upon tracks laid through the subways.

The Bell Telephone Company of Canada removed their plant and equipment from Richmond and Wellington streets and adjoining streets to comply with the order of the Board in that respect, and the Bell Telephone Company claim to be reimbursed in a sum of \$1,500 to \$1,800 in respect of the cost of such removal. I think this claim by the Bell Telephone Company should be allowed. If the subways on Richmond street and Wellington street which necessitated the removal of the Bell Telephone equipment had been solely works for the protection, safety and convenience of the public at grade crossings, I think the Telephone Company should have been made to bear the above expense, but as the scheme from its inception was essentially one for the construction of a new station and the improvement of city streets, I think the Bell Telephone Company should be reimbursed for its necessary expenditure in complying with the order of the Board. The Bell Telephone Company should

submit to the Board a detailed statement of this expenditure, which should be examined and certified by the Chief Engineer of the Board.

I have examined the records of the Board in regard to the applications both in respect of Richmond and Wellington streets and I have found no suggestion in these records that the work authorized by the Board was for the protection, safety or convenience of the public at grade crossings. In my opinion the whole project was one for the erection of a new station, the arrangement of trackage in the railway yards and for the improvement of city streets. The safety and convenience of the public were incidental to the general scheme. I note that by Order No. 45907 in respect of Richmond street subway the Board authorized the payment of a sum not exceeding \$100,000 from the amount paid "to the Railway Grade Crossing Fund" for the relief of unemployment. I note also that a further sum of \$553,505 was appropriated by the Dominion Government by Order in Council in November, 1930, to be expended upon "subway and track elevation at London, Ont." for the relief of unemployment. I have found nothing in any of the records to indicate that the above works were undertaken as works essentially for public protection, safety and convenience. Consequently, following a number of decisions of the Board, I find that the Bell Telephone Company of Canada should be reimbursed for the amount which it has properly expended in carrying out the orders of the Board.

The amount involved for apportionment in this application is the sum of \$87,992 as previously set out. To summarize, I find that the London and Port Stanley Railway Company is a party interested or affected within the meaning of section 39 of the Railway Act and should contribute $12\frac{1}{2}$ per cent of the amount above mentioned. Similarly I find that the Michigan Central Railway Company is a party interested or affected and should contribute $7\frac{1}{2}$ per cent. The London Street Railway Company is also a party interested and should contribute 5 per cent and should not be reimbursed for any expense it has been put to in the removal of its tracks. The remaining 75 per cent of the said sum of \$87,992 should be apportioned between the Canadian National Railways, the City of London and the London and Port Stanley Railway Company as provided by paragraph 3 (b) of the said Order No. 51618. The Bell Telephone Company should be reimbursed for the amount necessarily expended in complying with the Board's order.

There is one other question which has arisen in connection with this application which is worthy of consideration. Counsel on behalf of the London Street Railway Company and certain property owners in the city of London who claim that their property has been injuriously affected by the closing of various streets, moved that the present application be adjourned upon the ground that the Corporation of the City of London was in default under the terms of the order of the Board No. 45907 in not having passed the necessary by-laws to close portions of Talbot, Clarence, Waterloo, Colborne, Burwell and William streets, as shown on plan "A" filed upon said application. It is alleged by counsel that at the present time Clarence, Waterloo and Talbot streets are physically closed to traffic but that the Corporation of the City of London has omitted, or refused, to pass the necessary by-laws for the closing of the said streets and that property owners have been unable to obtain compensation for the damage sustained to their properties under the provisions of the Municipal Act. As the order of the Board was made expressly subject to and upon the terms and conditions contained in the said agreement of the 6th day of January, 1930, the Board is now asked to make an order to compel the Corporation of the City of London to pass the necessary by-laws in accordance with the terms of the said order and agreement, and to impose penalties against the city as provided by the Railway Act for the city's default.

I do not think the Board should deal with this application at the present time. Counsel for the London Street Railway and for the property owners gave

no notice to the applicants of any intention to move in respect of this matter. At the same time the Board feels strongly that the city should not longer delay passing the necessary by-laws to close streets in accordance with the order of the Board. After the objection had been taken by counsel for the street railway and property owners, counsel for the Canadian National Railways and for the city asked that the matter proceed and that the Board confine its findings upon the application to fixing the proportions which the parties should pay in respect of the amounts above mentioned. The order of the Board upon the present applications is intended only to fix these amounts and is without prejudice to any subsequent application which may be made to the Board in respect of the alleged default of the city of London in carrying out the provisions of the above orders.

May 8, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 54304

In the matter of the application of the City of London, in the Province of Ontario, the London and Port Stanley Railway Company, and the Canadian National Railways for an Order distributing the cost of the subways at Richmond and Wellington Streets, in the City of London, to the extent not allowed by Order No. 51618, dated December 21, 1934, between the New York Central Railroad Company (Michigan Central Railroad Company) and the London Street Railway, or such other parties as the Board may determine.

Files Nos. 16494 and 7264

THURSDAY, the 13th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. MCLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held in London, April 21, 1937, in the presence of counsel for the city of London, the London and Port Stanley Railway Company, the New York Central Railroad Company, the London Street Railway Company, the Bell Telephone Company of Canada, and the Canadian National Railways, and what was alleged,—

It is ordered:

1. That the sum of \$65,992, and the further sum of \$22,000 which represents 6 per cent of the total expenditure upon the subways at Richmond and Wellington streets, in the city of London, province of Ontario, during the years 1934 and 1935, making a total of \$87,992, set apart and reserved for further consideration under the said Order No. 51618, dated December 21, 1934, be apportioned as follows, namely: 12½ per cent to be paid by the London and Port Stanley Railway Company, 7½ per cent by the New York Central Railroad Company, 5 per cent by the London Street Railway, and the remaining 75 per cent between the Canadian National Railways, the city of London, and the London and Port Stanley Railway Company, as provided by paragraph 3 (b) of the said Order No. 51618.

2. That the Bell Telephone Company of Canada be reimbursed for its necessary expenditure in complying with the Orders of the Board Nos. 45907

and 45945, dated respectively December 5, 1930, and December 16, 1930; the said company to submit to the Board a detailed statement of such expenditure, to be examined and certified by the Chief Engineer of the Board.

3. That this order is without prejudice to any subsequent application which may be made to the Board in respect of the alleged default of the city of London in carrying out the provisions of the said Orders Nos. 45907 and 45945.

H. GUTHRIE,
Chief Commissioner.

Application of the Canadian Freight Association for approval of proposed Supplement No. 10 to Canadian Freight Classification No. 18

File No. 33365.110

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

Proposed Supplement No. 10 to Canadian Freight Classification No. 18 was submitted for approval by Chairman Ransom of the Canadian Freight Association on January 21, 1937. Notice was duly published in *The Canada Gazette*, as required under section 322 of the Railway Act and the Board's General Order No. 271. A proof copy of the proposed supplement, together with copy of the notice of publication in the *Canada Gazette*, was mailed by Chairman Ransom to the parties stipulated by General Orders Nos. 271, 348, 353, 469 and 471, with request that their objections, if any, be filed with the Board within thirty days. The supplement contains numerous new items, changes in shipping conditions, a number of reductions and some advances.

Objections were filed to only two items, namely:—

Proposed provision for passenger trailer cars, Items 10 and 12, page 42; objected to by the Canadian Top and Body Corporation, Tilbury, Ont.

Proposed change in carload rating on heating, or power, boilers, Items 38 to 42, page 38; objected to by the Boiler Manufacturers Association, the Canadian Manufacturers Association, the Dominion Bridge Company and the Toronto and Montreal Boards of Trade.

The matter was set down for hearing at sittings of the Board in Toronto on April 22, for the purpose of receiving the submissions of the interested parties with respect thereto.

With regard to passenger trailer cars, or carts, Mr. Brown of the Canadian Manufacturers Association stated that Mr. Odette, representing the Canadian Top and Body Corporation, and himself had had a discussion with Mr. Ransom at which it had been agreed to change the minimum charge of 5,000 pounds each, as shown in the supplement, to 4,000 pounds and, with this amendment, the objection was withdrawn. The order approving the supplement will provide for this amendment to the proposed item.

Item 26, page 189 of Classification No. 18 provides a carload rating of 6th class on iron or steel heating, or power, boilers and, by item 38 on page 38 of the proposed supplement, the carload rating is increased to 5th class and it is to this advance in the carload rating that objections were made by the parties already named and their representatives were present at the sittings in Toronto. The submissions of the objectors may be summarized as follows. The present rating is of long-standing, consequently, the carriers must fully justify the proposed increase. The present rating is in line with the ratings on a number of lines of machinery shipped for the initial installation of industrial plants and should be continued on this same relationship which has existed for a great number of

years. The boilers in question are largely shipped on flat cars and, consequently, the railway's costs in this regard are less than on traffic moved in box cars, as flat cars cost less to purchase and, probably, cost less to keep in condition than box cars, which has some bearing on the cost of moving the goods. When Classification No. 16 was under revision, the carriers had proposed advancing the carload ratings on machinery, etc., including boilers, from 6th to 5th class, but, upon objections made by the manufacturers who took the position that under the business conditions then existing the time was inopportune to make the proposed advance and after discussion between the representatives of the manufacturers and the carriers, the railways agreed to continue the 6th class rating, with the understanding that they would at some future date bring the matter before the manufacturers for further consideration and, probably, apply to the Board to make the carload rating 5th class; that, except with respect to the boilers, no further action has been taken and the carriers should not at this time single out one item and increase the rating thereon. It is alleged the increased rating would penalize the ultimate consumer by increasing the cost and might localize manufacture in order to eliminate long freight hauls to the detriment of both the railways and Eastern Canadian manufacturers; that the increase would be an added incentive for manufacturers to ship, wherever possible, by highway instead of rail transport.

These heating and power boilers are provided for in the machinery list of the classification. Machinery, including these boilers and agricultural implements, has, from the first issue of the Canadian Freight Classification on January 1, 1884, been rated 6th class in carloads. Boiler, machinery and agricultural implement parts are rated 5th class in carloads. This creates an anomalous situation with respect to the classification ratings on these articles, because it appears inconsistent that when the parts are combined into a complete article, which is more valuable and bulky, such complete article is given a lower carload rating than the separate parts thereof. The exact reason for originally establishing carload rating of 6th class on implements, boilers and machinery seems obscure, but it is not to be wondered at that after this lapse of time there is no definite record. Mr. Ransom stated that at the time these ratings were established in 1884, the railways were furnishing free cartage (with few exceptions) on articles classified in carloads at 5th class or higher and he understood that because these boilers were of dimensions that made them difficult to handle, they were accordingly rated 6th class, in order that the shippers and consignees would be compelled to pick up and deliver them at their own expense. Free cartage by the railways was discontinued many years ago, although it has recently been again given in certain areas with respect to pick-up and delivery tariffs issued to meet motor truck competition. Mr. Marshall, of the Toronto Board of Trade, stated that while, for a great many years, the reason advanced by Mr. Ransom had been accepted as being the explanation, he was doubtful concerning that being the true reason, because there was a rule in the classification at that time which stipulated that all heavy freight, of 1,000 pounds or over per piece or package, of 1st, 2nd, 3rd, 4th and 5th classes, also heavy freight and all bulk freight in 6th, 7th, 8th, 9th and 10th classes, was to be loaded and unloaded by owners; that at points where the companies provided a cartage service, it was to be understood that heavy articles, and bulk freight above referred to, would not be carted or handled by the companies, unless by special arrangement and at the expense of the owner in addition to the rate.

The Board has recognized that, under the conditions and procedure followed in compiling the classification, there are inconsistencies to be found therein. In judgment concerning the application of the Planters Nut and Chocolate Com-

pany, Limited, Toronto, Ontario, Volume No. 23, Board's Judgments and Orders, p. 284, the Board stated at p. 288:—

"Classification is not an exact science, nor may the ratings accorded a particular article be determined alone by the yardstick, the scales and the dollar. From its very nature and use, classification cannot be so minute as to do mathematically exact justice to every variety of commerce that may move."

When Classification No. 16 was under revision, the work was done by special classification committees composed of representatives of both the shippers and the railways and conferences were held with the representatives of all lines of trade and, in the Board's judgment in this case, Volume 15, Board's Judgments and Orders, p. 177, at p. 180, it is stated: "The classification, as submitted, represents the work of the joint committee of shippers and carriers and, naturally, contains compromises and, perhaps, some inconsistencies." One of the features that might be here mentioned was the attempt of the carriers at that time to secure the approval of the manufacturers to an advance in the carload rating on implements, boilers and machinery from 6th to 5th class, but which was finally abandoned and the 6th class rating continued in the classification as finally submitted to the Board for approval, which is already herein referred to in the summary of the objections. In 1921, when proposed Supplement No. 16 to Classification No. 16 was before the Board for approval, there was considered the complaint of the Massey Harris Company, Limited, which, in effect, was an application for a reduction from 5th to 6th class in the carload rating on agricultural implement parts, which was refused, and, in the judgment it is stated (Volume No. 11, Board's Judgments and Orders, p. 18):—

"It is contended by the Massey Harris Company that it is anomalous to have spare parts on a higher rating than the implements of which they form repair parts. This opens up a wide field of discussion which would be more apposite in connection with a general consideration of the question of classification. It may be mentioned in passing that spare machinery parts are classed higher than the machinery itself."

In 1914, the applications of Sheldons, Limited, Galt, Ontario, and the Sirocco Company, Windsor, Ontario, for an order reducing the carload rating on heating and ventilating apparatus, now covered by Item 39, page 170 of Classification No. 18, and which includes boilers, from 5th to 6th class were dismissed by Order No. 21969, dated June 11, 1914.

The 6th class carload rating on implements, machinery and boilers was not directed nor prescribed by the Board and this rating has never specifically been brought in issue before the Board. It is now before us with respect to the boilers. While heating, or power, boilers are rated 6th class, carloads, minimum carload weight 20,000 pounds, in the machinery list, sectional boilers are rated 5th class, carloads, minimum carload weight 24,000 pounds, in the stove list. Boiler parts, as covered by items 19 to 32 on page 59 of the classification, are rated 5th class in carloads. 5th class carload rating is also provided, by item 24, page 2 of supplement No. 3 to the classification, applying on: Boiler Parts, Water Tube, consisting of iron or steel headers; Tubes; Drums, steam, water or mud; Cross Boxes; Nipples; Boiler Fronts; Grate Bars; Stokers; Hangers; Fittings and Fixtures for same, iron or steel. This item was put in the classification as the result of a conference between representatives of boiler manufacturers and the railways on April 16, 1931.

Mr. Ransom filed Exhibit No. 3, covering sectional boilers rated 5th class, and Exhibit No. 4, covering heating boilers rated 6th class. These contain illustrations and data concerning dimensions, weights, etc. Exact comparison

is difficult from the data given, but, from them and the record, it appears clear that these two types of boilers weigh about the same per cubic foot and that their transportation characteristics are similar. It is the contention of the carriers that there is no justification for two different ratings thereon and that the boilers shown in Exhibit No. 4 should not be rated lower than those shown in Exhibit No. 3 and 5th class is the proper carload rating. Mr. Ransom quoted from a letter from the Spencer Foundry Company, Limited, Penetanguishene, Ontario, in which it is stated:—

“I would like to take the liberty of suggesting that I don't see why there should be any difference in the freight classification on cast sectional boilers and steel boilers. From the standpoint of weight, I would say that they bulk about the same.”

The record shows that, under the present classification provisions, there has been difficulty and controversy in interpreting and applying the classification ratings; that applications have been made to the carriers to apply 6th class rating on other articles which, it is claimed, are analogous to boilers as covered by item 26, page 189 of the classification. The railways consider that the 6th class carload rating is too low and that these boilers should be classified with related articles at 5th class and, in this connection, refer to item 10, page 20 of supplement No. 2, to the classification, providing 5th class carload rating on iron or steel tanks, which are of much less value than the boilers in question; also items 22 to 24, page 5 of supplement No. 9 to the classification. With regard to the objection that the present rating is in line with the ratings on a number of lines of machinery and should be continued on this same relationship, which has existed for a great number of years, Mr. Ransom points out that the classification provisions with respect to machinery have undergone a considerable change over a period of years. Originally, and for many years thereafter, machinery of all kinds was rated 6th class carloads. During the past twelve years, many kinds of machinery have been specifically described in the classification and provided with carload ratings of 5th class, see the following items in Canadian Freight Classification No. 18: items 19 and 21, page 188; item 13, page 189; items 9 and 30, page 190; items 2, 3 and 4, page 191; also numerous other items as shown on pages 192 to 201. It is submitted by the carriers that a change in the rating on boilers, or the provision of 5th class carload rating on some articles of machinery while others are rated 6th class, does not constitute unjust discrimination, because the articles in question do not compete with one another, being for entirely different uses, and, in his letter of March 12, Mr. Brown of the Canadian Manufacturers Association states that they do not allege unjust discrimination.

With respect to Mr. Brown's statement concerning flat cars, which has already been referred to herein, Mr. Ransom stated he had been informed by the transportation departments of the railways that it does not cost less to handle traffic on flat cars than in box cars, for the reason that, in the case of flat cars, there is a greater proportion of empty mileage, increased switching and less intensity of use; that, so far as concerns the cost of maintenance, the upkeep of a car is principally in the gear and that the gear on a flat car is the same as on a box car; that there is very little upkeep charged against the box itself; further, that, on flat car shipments, shippers frequently use large spikes and blocks to protect the load en route and, in many cases, serious damage is done to the floor of the car when the spikes and blocks are removed at destination; that the upkeep of the floor of a box car is much less than that of the floor of a flat car. The boiler manufacturers stated a fair average value would be 12 cents per pound for boiler material and Mr. Ransom stated he was confident that there were more articles in the classification that are classified 5th class, in carloads, that are of less average value than 12 cents per pound than there are of greater average value and named a number of the commodities (p. 1129).

Regarding the objection that the increased rating would penalize the ultimate consumer by increasing the cost, the same allegation could be made with respect to every advance proposed in the classification. The classification is being continually changed in the form of both increases and reductions. A glance at the symbols indicating reductions and advances in this proposed supplement shows a great many more reductions than advances. It seems probable that price fluctuations play an important part in the consumer's cost. On this point, the Board has always been governed in its decision by consideration of whether, in relation to other ratings in the classification and the factors considered in approving classification ratings, what was proposed was proper and reasonable.

Exhibit No. 1 shows that on the shipments made by the Dominion Bridge Company during the year 1936, the proposed change would have increased the freight charges to the extent of \$5.22 per car. Exhibit No. 2 shows that on the shipments made by the boiler manufacturers of Eastern Canada during the six months ending December 31, 1936, the proposed change would have increased the freight charges on shipments to points in Eastern Canada by an average of \$9.31 per car; to points in the prairie provinces by an average of \$33.93 per car; and to British Columbia \$108.02 per car. There were 30 cars to Eastern Canadian destinations, 5 to the prairie provinces and 2 to British Columbia. Mr. McCulloch, representing Babcock-Wilcox and Goldie-McCulloch, Limited, stated that their shipments during the year 1936 weighed 4,900,000 pounds. According to Exhibit No. 2, for the last six months of 1936, the weight of the shipments from this manufacturer rated 6th class was 445,000 pounds. If these figures are correct, it appears that, under the proposed change in rating, only a small proportion of the total weight shipped by this manufacturer will be affected. It is assumed that the figures furnished by Mr. McCulloch must, of course, include boiler parts, which are rated 5th class, and, perhaps, less than carload shipments as well.

So far as relates to the antiquity of the rating, Mr. Ransom contended that this, in itself, is not a reason why it should not be changed if it is found to be an improper rating; that, when the carriers are asked to make reductions in ratings, they never cite the antiquity of the present rating as a reason for not granting the application. Mr. Brown, in his letter of March 12, agreed that this ground could not be advanced as the sole reason that no change should be made, but submitted that it should have considerable weight. It may be pointed out that, in dealing with the ratings on millinery in the express classification (Volume 21, Board's Judgments and Orders, p. 29), the Board authorized a change in classification of some twenty years existence. In re Canadian Freight Classification No. 17 (Volume 15, Board's Judgments and Orders, p. 177), the Board authorized (p. 237) an increase in the carload rating on empty tin cans, loose, which had been in existence for approximately forty years; also on wooden boxes and baskets (pages 193 and 195), the carload rating in force for some forty years was authorized to be increased.

Upon careful consideration of all that has been submitted, I am of the opinion that the proposed change in the carload rating on boilers is reasonable and should be approved.

By letter dated April 19, Mr. Ransom submitted some additional changes in the classification which had been agreed upon by the carriers and representatives of the shippers since proposed Supplement No. 10 was forwarded to the Board and the order approving the supplement will also incorporate these changes.

It is also pointed out that, upon approval of this supplement, Classification No. 18 and supplements thereto will be consolidated and issued as Classification No. 19 and that, in reissuing the classification, there will be a rearrangement and consolidation of many of the items, which do not constitute any increases but will, in some cases, provide for reductions, either in the carload

minimum weight or the less than carload rating, the following instances being illustrative:—

Items 8, 17 and 26, page 41 of Classification 18, have been consolidated in one item. While the Fork and Rake Heads have 1st class rating in bundles, such rating is not carried in connection with the Hoe, Potato, Hook or Manure Heads. In consolidating the items, the bundle shipping condition is carried in connection with all the articles named at 1st class, which change constitutes a reduction, as under the progression of classes, 1½ rating would apply.

Items 8, 9 and 10, page 61, covering ratings on iron and wooden Boot Shanks have been consolidated. The iron and steel have no rating at the present time when shipped in bags. In proposed classification No. 19, 2nd class rating will apply when shipped in bags, barrels or boxes. This is a reduction.

The L.C.L. ratings have in some cases been reduced in consolidating items. For instance, an item may have a 1st class rating in bags, and 2nd class in barrels or boxes and another item 2nd class in bags, barrels or boxes. Any such items that have been consolidated, 2nd class rating applies in bags, barrels or boxes.

In a few cases the carload minimum weights have also been reduced. If two items, one carrying 24,000 pounds and the other 30,000 pounds, have been consolidated, 24,000 pounds minimum will apply.

There can be no objection to this action and it is approved.

Ottawa, Ontario, May 13, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

GENERAL ORDER No. 562

In the matter of the application of the Canadian Freight Association, under Section 322 of the Railway Act, for approval of proposed Supplement No. 10 to Canadian Freight Classification No. 18, on file with the Board under file No. 33365.110.

THURSDAY, the 13th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in the *Canada Gazette*, as required by section 322 of the Railway Act, and copies of the said supplement furnished to the parties named in the General Orders of the Board Nos. 271, 348, 353, 469, and 471, with the request their objections, if any, be filed with the Board within thirty days,—

Upon consideration of the objections filed, and upon hearing the application at the sittings of the Board held in Toronto on April 22, 1937, the Canadian Freight Association, Canadian Manufacturers' Association, Montreal Board of Trade, Toronto Board of Trade, Canadian Top & Body Corporation, Tilbury, Beach Motors, Ottawa, Babcock-Wilcox & Goldie-McCulloch, Galt, Waterous Limited, Brantford, E. Leonard & Sons, London, and Dominion Bridge Company, Montreal, being represented at the hearing, and what was alleged,—

The Board orders: That the said proposed Supplement No. 10 to Canadian Freight Classification No. 18, be, and it is hereby, approved, for consolidation

with Canadian Freight Classification No. 18 and supplements thereto, the new consolidated Freight Classification to be issued as Canadian Freight Classification No. 19, subject to the following changes and additions, namely:—

(a) Item 34, page 38, of Supplement 10, covering ratings on air cleaners, coolers, heaters, etc., to be also added to the electrical appliances and supplies list.

(b) Items 10 and 12, page 42, of Supplement 10, covering ratings on passenger trailer cars or carts, to be transferred to the non-self propelling list of vehicles, and the minimum charge of 5,000 pounds each to be changed to read, "4,000 pounds each."

(c) Items 10, 12, and 14, page 2, of Supplement 8 to be amended to read:—

"Boats, Canoes and Launches:

Canoes, Dinghys, Row Boats or Skiffs, canvas, fibre, steel or wood, S.U., with or without power or sails:—

Loose.....	4	t	1
Packed in hay, straw, excelsior, or similar packing and burlapped, or in boxes or crates:—			
Not nested	2½	t	1
Nested		D	1
Sectional, folded, or sections placed one within another....		D	1
C.L., min. wt. 10,000 lbs., Rule 7.....			2
Launches, Sail Boats or Yachts:—			
With power installed		D	1
Without power	2½	t	1
C.L., min. wt. 10,000 lbs., Rule 7.....			2"

(d) Belting and sprocket chains, as per Items 2 to 4, page 157 of Classification No. 18, to be added to the agricultural implement parts, other than hand, list.

(e) Snow plow attachments, as per Item 6, page 273, of Classification No. 18, to be added to the grading and roadmaking implements list.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54249

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

SATURDAY, the 1st day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 80 of Supplement No. 30 to Tariff C.R.C. No. E-1906, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Temiscouata Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 80 of Supplement No. 30 to Tariff C.R.C. No. E-1906, approved herein, is—

Item	Cents per 100 pounds	
	Billed	Normal
80.. . . .	3	4

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54250

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12.

MONDAY, the 3rd day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items Nos. 85B, 120D, and 128 of Supplement No. 21 to Tariff C.R.C. No. E-4368, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 85B, 120D, and 128 of Supplement No. 21 to Tariff C.R.C. No. E-4368, approved herein, are as follows:—

Item	Cents per 100 pounds
85B	The normal tolls are those shown in item 383 of Supplement No. 50 to G. C. Ransom's Tariff C.R.C. No. 110.

One and one-half cents per 100 pounds to be deducted on account of water haul.

Item	Cents per 100 pounds
120D	The 10th class rates covered by previous order or orders will apply.

Item		Cents per 100 pounds
128	From stations on the Canadian Pacific Railway in New Brunswick To	
	Biggar, Sask.	101
	Brandon, Man.	84
	Calgary, Alta.	105
	Dundurn, Sask.	100½
	Edmonton, Alta.	105
	Estevan, Sask.	90
	Eston, Sask.	104½
	Humboldt, Sask.	99½
	Indi, Sask.	100½
	Kindersley, Sask.	104½
	Krydor, Sask.	104½
	Melfort, Sask.	100½
	Melville, Sask.	90
	Moose Jaw, Sask.	92
	Neepawa, Man.	84
	North Battleford, Sask.	102
	Portage la Prairie, Man.	83½
	Prince Albert, Sask.	101
	Regina, Sask.	92
	Rosetown, Sask.	103½
	Saskatoon, Sask.	100½
	Swift Current, Sask.	95½
	Tallman, Sask.	104½
	Unity, Sask.	103
	Watrous, Sask.	99½
	Weyburn, Sask.	92
	Winnipeg, Man.	81½
	Yorkton, Sask.	90

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54252

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 3rd day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 47 to	Tariff C.R.C. No.	E-1247.
“ 37	“ “	E-1258.
“ 44	“ “	E-1829.
“ 16	“ “	E-2444.
“ 4	“ “	E-2474.
“ 3	“ “	E-2526.
“ 2	“ “	E-2560.
“ 6	“ “	E-2564.
“ 7	“ “	E-2564.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54256

In the matter of the Order of the Board No. 54166, dated April 12, 1937, authorizing the Bell Telephone Company of Canada to construct and erect its lines of telephone along the sides of and across or under certain public highways, streets, lanes, and other such places in the City of Ottawa, Province of Ontario, therein described

And in the matter of the application of the said Company for an Order amending the said Order No. 54166:

File No. 20191.5.

WEDNESDAY, the 5th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

Upon reading the application and the consent of the City of Ottawa filed,—
It is ordered: That the said Order No. 54166, dated April 12, 1937, be, and it is hereby, amended by deleting therefrom clause (a) of heading number 1 of paragraph No. 1 thereof and substituting therefor the following:—

“(a) Buried jute protected cable from the existing pole at the south-west corner of Kippewa drive and Bronson avenue, thence westerly along Kippewa drive to the lane west of Bronson avenue running south from Kippewa drive, thence southerly along said lane to the most northerly pole thereon, all as shown on the applicant company's Revision Plan No. 1, Estimate No. 5901, dated February 24, 1937, filed.”

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54281

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 11th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 39 to Tariff C.R.C. No. E-1238.

Supplement 4 to Tariff C.R.C. No. E-2526.

Supplement 3 to Tariff C.R.C. No. E-2560.

Item No. 215 of Supplement No. 1 to Tariff C.R.C. No. E-2571.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54282

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 11th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the toll published in Supplement No. 11 to Tariff C.R.C. No. E-4369, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 11 to Tariff C.R.C. No. E-4369, approved herein, is 79½ cents per 100 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54283

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 11th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the toll published in Supplement No. 22 to Tariff C.R.C. No. E-4368, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 22 to Tariff C.R.C. No. E-4368, approved herein, is 85½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54288

In the matter of the application of the International Bridge and Terminal Company, hereinafter called the "Applicant Company," under Section 323 of the Railway Act, for approval of By-law No. 3, dated May 6, 1937, authorizing (1) the Vice-President in Charge of Traffic to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Applicant Company; and (2) the Vice-President in Charge of Traffic to prepare and issue tariffs of the tolls to be charged in respect of the use for pedestrian, vehicular, or other traffic on, over, or across the bridge owned or operated by the Applicant Company, and to submit the same to and file the same with the Board.

File Nos. 17421.4 and 17421.9

TUESDAY, the 11th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*
G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the said By-law No. 3 of the applicant company, dated May 6, 1937, on file with the Board under files Nos. 17421.4 and 17421.9, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54291

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 13th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1042, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1042, approved herein, are as follows:—

To	Cents per 100 pounds
Fredericton, N.B.	20½
Grand Falls, N.B.	22½
Hartland, N.B.	26
Harvey, N.B.	25
Prince William, N.B.	26
Woodstock, N.B.	22½

One and one-half cents per one hundred pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54292

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 14th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published under column "Q" in 4th revised page No. 20, and to Joliette, Quebec, in item No. 545 of 2nd revised page No. 33 and item No. 620 of 6th revised page No. 36 to Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said column "Q" and items Nos. 545 and 620 of revised pages Nos. 20, 33, and 36 to Tariff C.R.C. No. E-4757, as specified and approved above, are as follows:—

Miles	Cents per 100 pounds Column "Q"	Miles	Cents per 100 pounds Column "Q"
5.. . . .	4	140.. . . .	16½
10.. . . .	4½	150.. . . .	16½
15.. . . .	4½	160.. . . .	17½
20.. . . .	6½	170.. . . .	
25.. . . .	7½	175.. . . .	
30.. . . .	8	180.. . . .	19
35.. . . .	8	190.. . . .	
40.. . . .	9	200.. . . .	
45.. . . .	9	210.. . . .	19½
50.. . . .	10½	220.. . . .	
55.. . . .	10½	225.. . . .	
60.. . . .	10½	230.. . . .	20
65.. . . .	10½	235.. . . .	
70.. . . .	12½	240.. . . .	
75.. . . .	12½	250.. . . .	
80.. . . .	14	260.. . . .	
85.. . . .	14	270.. . . .	21½
90.. . . .	14½	275.. . . .	21½
95.. . . .		280.. . . .	
100.. . . .		290.. . . .	22½
110.. . . .	15	300.. . . .	22½
120.. . . .			
125.. . . .			
130.. . . .			

Item	To Joliette, Que.	From Halifax, N.S.	Cost per 100 pounds Saint John, N.B. and West Saint John, N.B.
545		27½	25
620	From		
	Aylesford, N.S.	Hamilton, Ont.	68
	" "	London, Ont.	74
	" "	Ottawa, Ont.	61½
	" "	Toronto, Ont.	66
	Kingston, N.S.	" "	65½
	Lakeville, N.S.	" "	66
	Sheffield		
	Mills, N.S.	" "	66
	Wolfville, N.S.	" "	66

One and one-half cents per 100 pounds to be deducted on shipments moving via Digby, N.S., and Saint John, N.B., on account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54299

In the matter of the application of the London and Port Stanley Railway Company, hereinafter called the "Applicant Company," under Section 323 of the Railway Act, for approval of by-law, passed May 6, 1937, authorizing the General Manager of the Applicant Company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the London Railway Commission, and to submit the same to and file the same with the Board.

File No. 26845.

FRIDAY, the 14th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said By-law, passed May 6, 1937, authorizing the applicant company's general manager to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the London Railway Commission, on file with the Board under file No. 26845, be, and it is hereby, approved.

2. That orders numbered 24859 and 35314, dated respectively April 4, 1916, and July 14, 1924, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54301

In the matter of the application of the Cumberland Railway and Coal Company, hereinafter called the "Applicant Company," under Section 323 of the Railway Act, for approval of by-law, passed May 5, 1937, authorizing the General Traffic and Transportation Manager, or Assistant General Traffic and Transportation Manager, of the Applicant Company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Applicant Company, and to submit the same to, and file the same with, the Board.

Case No. 3093

FRIDAY, the 14th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said By-law of the applicant company, on file with the Board under Case No. 3093, be, and it is hereby, approved.

2. That Order No. 4983, dated July 7, 1908, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 563

In the matter of the application of the Canadian Freight Association, on behalf of railway companies subject to the jurisdiction of the Board, under section 348 of the Railway Act, for an Order approving a new form of "Release" in connection with wearing apparel and personal effects, in trunks, on file with the Board under file No. 8954.

THURSDAY, the 13th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon reading what is filed in support of the application, and the report of the Chief Traffic Officer of the Board,—

It is ordered as follows, namely:—

1. That the said form of "Release," being a form of special contract limiting the liability of the carrier in respect of the carriage of the undermentioned traffic, on file with the Board under file No. 8954, be, and it is hereby, approved, the said form being in the terms following:—

"RELEASE FORM FOR WEARING APPAREL AND PERSONAL
EFFECTS IN TRUNKS

.....Railway

RELEASE OF RESPONSIBILITY

IN CONNECTION WITH THE

*Transportation of clothing, wearing apparel and personal effects (all
second-hand) in trunks, securely corded*

..... 19....

Consignee and Destination	Description of Shipment
---------------------------	-------------------------

" READ THIS SPECIAL CONTRACT "

In consideration of theRailway Company receiving the above-mentioned trunk (or trunks) at Station for carriage to and waiving further protection than is afforded by the cording thereof, which cording I hereby declare to be good and secure, I do hereby undertake that no claim in respect to injury to or loss of the said property, or any of it, will be made against the said Company, and its connections, or any of them, exceeding the amount of Ten (10) cents per pound, whether such loss or injury is occasioned by the negligence of the Company, its servants or agents or otherwise.

..... Shipper.

This Release to be filed with Shipping Bill by Shipping Agent."

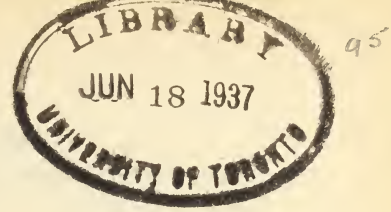
2. That all railway companies under the jurisdiction of the Board be, and they are hereby, directed to discontinue the use of their present forms of "Release" limiting their liability with respect to the carriage of the property referred to in section No. 1 of this order, and to substitute therefor the form herein prescribed until otherwise ordered by the Board.

3. That the Canadian Freight Classification, also, if necessary, any special tariffs affected by these provisions, be amended so as to conform to this order.

4. That General Order No. 123, dated March 19, 1914, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,
Chief Commissioner.

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The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, June 3, 1937

No. 6

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Dangerous Practices of Motorists, Drivers of Other Vehicles, and Pedestrians at Protected Crossings

In many cases accidents at highway crossings are due to negligence of those driving automobiles and other vehicles and of pedestrians. This negligence is found both at unprotected and protected crossings.

The Canadian National Railways lines from November 1, 1936, to April 30, 1937, show ninety-seven cases where there was danger at protected crossings due to the negligence of those using the crossings.

The Canadian Pacific Railway lines from October 1, 1936, to March 31, 1937, show a total of two hundred and fifteen cases.

Notwithstanding safety devices and cautionary signals, people take chances and disregard safety. Motor accidents are becoming more frequent. Every sane motorist deplores this.

The Board hopes that the press will give as much publicity as possible to what is covered in the statement with the hope that it may educate motor drivers and others to be more careful at crossings.

If accidents are to be lessened, the sane motorist must educate the culpably negligent motorists, some of whose actions are recorded in the following lists:—

CANADIAN NATIONAL RAILWAYS

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Oct. 22.....	10.00 p.m....	Mill St. crossing, Saint John, N.B.	.....	Auto crashed through gates and did not stop, bell ringing.
Oct. 23.....	7.05 p.m....	Ferry St., Sydney.....	.....	Auto ran through north and south gates breaking arms.
Nov. 2.....	9.25 a.m....	Heriot St., Drummondville, P.Q.	Que. 64715.....	Auto struck south gate as it was being lowered.
Nov. 3.....	11.20 p.m....	Dundas St. crossing, London East, Ont.	Ont. S-8900.....	Auto failed to heed yardman's stop signal.
Nov. 3.....	6.40 p.m....	No. 2 Highway, Morrisburg, Ont.	Ont. AW-716....	Auto ran through lowered crossing gates.
Nov. 4.....	10.50 p.m....	St. Andrews Road, Cornwall, Ont.	.....	Auto ran into lowered gates, proceeded without stopping.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Nov. 4.....	9.43 a.m...	Dundas highway, No. 5 crossing, south of Tansley Station.	Ont. Y-8182.....	Auto approached crossing at a speed of 45 to 50 miles per hour, failed to observe approach of train, resulting in auto being struck and driver badly injured.
Nov. 5.....	3.45 p.m...	Ferry St., Sydney, N.S...	70-5005.....	Truck ran through south arm of gate breaking piece of arm.
Nov. 6.....	11.40 a.m...	Water St., Summerside, P.E.I.	P.E.I. 7731.....	Ignored stop signal.
Nov. 15.....	2.40 p.m...	Mill St., Saint John, N.B.	5149.....	Auto cracked tip northeast gate.
Nov. 17.....	10.50 p.m...	Dundas St., London.....	PH-677.....	Auto driver failed to heed yardman's signals, drove over crossing and barely missed being struck by train.
Nov. 18.....	3.30 a.m...	No. 32 highway, Morrisburg.	Ont. E-3044.....	Auto ran into lowered gates.
Nov. 19.....	10.45 a.m...	Water St., Summerside, P.E.I.	P.E.I. 4480.....	Ignored stop signal.
Nov. 11.....	8.45 a.m...	Mill St., Saint John, N.B.	CJ-1698.....	Truck skidded into gate breaking it off.
Nov. 20.....	11.45 a.m...	Mill St., Saint John, N.B.	CI-259.....	Truck skidded into gate breaking the casting.
Nov. 20.....	6.45 a.m...	Geogre St., New Glasgow	C-11215.....	Auto ran into crossing gate while being lowered, breaking end off one arm.
Nov. 21.....	5.30 p.m...	Weston Road, Toronto...	71472-C.....	Truck entered crossing while gates were being lowered and warning bell ringing.
Nov. 23.....	6.15 p.m...	Second public crossing south of Cookstown, Ont	Ont. OD-180....	Auto skidded into rear of engine, driver claimed he did not see train.
Nov. 28.....	10.10 p.m...	Queen St., Moncton.....	.....	Auto ran into lowered gates.
Nov. 28.....	5.10 p.m...	Sydney.....	C-15761.....	Truck ran into south left arm of gate.
Nov. 28.....	5.10 p.m...	Ferry St., Sydney.....	15-761.....	Truck ran through left south gate and broke it.
Nov. 29.....	2.00 a.m...	Main St., Glencoe, Ont...	U-4430.....	Auto ran into gates lowered for passing train.
Dec. 2.....	7.30 p.m...	George St., New Glasgow, N.S.	N.S. C. 1-8722..	Auto smashed through one of the gates.
Dec. 2.....	19.30 K....	Public road crossing, Chappell, Sask.	Sask. T-302....	Truck stalled on crossing during blizzard.
Dec. 2.....	.....	Drummondville.....	Que. 65003.....	Auto driven into lowered gates.
Dec. 4.....	6.20 p.m...	Carillon-Grenville, Quebec.	Que. 94205.....	Train had stopped on crossing and auto ran into side of third car from engine.
Dec. 3.....	.....	Public crossing, Highway 10 and 15, Melville, Sask.	Sask. 34178.....	Attempted to cross track without ascertaining if same was occupied by train.
Dec. 9.....	11.25 a.m...	Charlotte St., Peterboro, Ont.	Ont. 50512C....	Approaching crossing too fast in view of condition of street.
Dec. 10.....	7.43 p.m...	7th Line, Oakville, Ont...	Ont. OH-484....	Ran through lowered gates and quickly disappeared leaving no information.
Dec. 14.....	12.30 p.m...	George St., New Glasgow, N.S.	N.S. 61414.....	Auto driver ignored signal bell and continued across tracks while gates were being lowered.
Dec. 14.....	.....	Lindsay, Drummondville, P.Q.	Que. FM-1586..	Truck struck and broke lowered gate.
Dec. 15.....	18.10 K....	Public crossing, M.P. 136.1 Oyen Subd'n., Calgary.	Alta. 36849.....	Driver of auto failed to make sure crossing was clear before driving onto same.
Dec. 15.....	4.48 p.m...	95th Street, Edmonton, Alta.	Alta. 4-807.....	Signalman pulled south gate first to stop cars from that side and tried to stop auto driver with north gate but could not, so ran out and tried to stop him on street but could not until he struck south gate.
Dec. 18.....	8.10 p.m...	William St., Chatham, Ont.	Ont. 25965-C...	Truck ran into lowered gates.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Dec. 19.....		Darlington St., Yorkton yard, Yorkton, Sask.	Sask. 34504.....	Auto approached crossing with- out ascertaining if train was approaching.
Dec. 19.....	12.40 p.m....	18th Ave., Lachine, Que., Dominion.	Que. F-6414.....	Auto about 100 feet from gates when they started to lower. Ran into gates damaging them.
Dec. 22.....	9.55 a.m....	Second public crossing, Newmarket, Ont.	Ont. EX-506....	Driver unable to stop before auto ran into side of engine, engine bell ringing and wigwag and crossing bell working.
Dec. 24.....	2.30 a.m....	Royce Ave., Bathurst Stn., Toronto.	Ont. 1069-A.....	Auto failed to observe signals, damaged crossing gates.
Dec. 24.....	6.30 p.m....	St. John St., Truro, N.S.		Ran auto off street onto tracks.
Dec. 24.....	6.30 a.m....	Lutz Street, Moncton, N.B.	M-5425.....	Auto struck gate being lowered breaking off about 4 ft.
Dec. 25.....	11.05 a.m....	Water St., Summerside, P.E.I.	P.E.I. 5480.....	Ignored stop signal.
Dec. 28.....	1.28 p.m....	Water St., Summerside, P.E.I.	P.E.I. T-407....	Ignored stop signal.
Dec. 29.....	10.25 a.m....	Strachan Ave., Bathurst Stn., Toronto.	Ont. C-1877.....	Auto ran into lowered crossing gates.
Dec. 29.....	8.01 p.m....	118th Ave., Edmonton, Alta.	C-6-988.....	Auto diver did not notice gates down until he was too close to stop so he turned to left but car skidded striking gate and breaking it off.
Dec. 30.....		Road crossing, M.P. 54-4, Yorkton Sub., Canora, Sask.		Vehicle drove onto railway tracks without ascertaining if train was approaching.
Dec. 31.....	17.30k.....	Public crossing, M.P. 136-1 Oyen Subd., Calgary, Alta.	Alta. 36692.....	Auto travelling too quickly ap- proaching crossing considering condition of weather and roads.
Dec. 31.....	3.55 p.m....	Water St., Summerside, P.E.I.	P.E.I. 7271.....	Ignored stop signal.
Jan. 1.....	2.37 p.m....	Water St., Summerside, P.E.I.	P.E.I. 5990.....	Ignored stop signal.
Jan. 1.....	11.10 a.m....	St. Charles Barromée St. crossing, Joliette, Que.	H-30514.....	Auto tried to stop but as high- way was slippery it swung around and struck side of engine.
Jan. 4.....	9.45 p.m....	Walker Road, Walkerville, Ont.	W-560.....	Auto ran into lowered gates breaking end.
Jan. 5.....		95th St., Edmonton, Alta.	Alta. 61-444.....	Auto struck and broke the southeast gate, the gate fast- enings and the gate lantern.
Jan. 6.....	5.10 p.m....	Front St., Bathurst Stn., Toronto, Ont.	69811-C.....	Truck failed to observe signals and ran through lowered cross- ing gates.
Jan. 8.....	9.25 p.m....	Ferry St., Sydney, N.S....	71-362.....	Auto ran into north left hand gate, breaking piece of arm.
Jan. 9.....	7.00 a.m....	Heriot St., Drummond- ville, Que.	Que. T-2289.....	Auto driven from south to north struck south gate.
Jan. 9.....	3.50 p.m....	Church St., Moncton, N.B.	M-1801.....	Auto skidded on account of ice and slid into gates being low- ered breaking off about 6 ft. of same.
Jan. 13.....	9.35 a.m....	St. George St., Moncton, N.B.	CM-915.....	Auto slid and broke weight casting of gate.
Jan. 18.....	7.50k.....	20th St., East, Calgary, Alta.	Alta. No. 7057..	Auto approached too quickly. Could not see train as wind- shield frosted over, on account of slippery condition of road could not stop in time to avoid collision.
Jan. 20.....	15.48.....	M.P. 77-45, Wabamun Sub., Wildwood, Alta.	Alta. B-3066....	Vehicle drove onto crossing in front of engine.
Jan. 21.....	7.40 a.m....	College St., Lennoxville..	Que. 28550.....	Auto ran into lowered crossing gates.
Jan. 23.....	6.30 a.m....	Victoria Ave., Hamilton, Ont.	Ont. 607-D-1...	Auto skidded into lowered cross- ing gates, damaging them.
Jan. 25.....	4.40 p.m....	Water St., Summerside, P.E.I.	P.E.I. 1992.....	Ignored stop signal.
Jan. 26.....	10.15 a.m....	Ferry St., Sydney, N.S....	71-228.....	Auto ran into south crossing gate, breaking arm.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Jan. 29.....	22.15 k.....	Third Ave., Drumheller, Alta.	Alta. 157.....	Driver of auto failed to make sure crossing was clear before driving onto same.
Feb. 2.....	8.30 a.m....	Logan Ave., Bathurst Stn., Toronto.	8-C-137.....	Approached crossing at excessive speed and failed to observe signals.
Feb. 3.....	19.05 k.....	Fifth St., East, Drum- heller, Alta.	Alta. 74670.....	Driver of auto failed to make sure crossing was clear before driving onto same.
Feb. 4.....	1.10.....	118th Ave., Edmonton Terminal.	Alta. 31-929.....	Auto ran into closed gates dam- aging same. Driver claims he did not see gates until he saw red light, when quite close.
Feb. 4.....	10.26 a.m....	McDougall Ave., New- market Sb., Downsview, Ont.	71596-C.....	Truck failed to see or hear train and drove over crossing imme- diately in front of train and rear of truck struck by engine.
Feb. 4.....	10.30 p.m....	Pillette Road, Walkerville Ont.	699-F-7.....	Auto crossed tracks in front of train.
Feb. 5.....	7.50 p.m....	Longford, Ont., Mlg 93-7, Newmarket Sub.	868-N-2.....	Auto drove into side of train stopped on main track with sixth car from caboose on crossing.
Feb. 8.....	7.50 p.m....	Thames Street, Ingersoll, Ont.	2-R-19.....	Approached crossing with too much speed, considering foggy conditions prevailing, and ran through crossing gates.
Feb. 9.....	9.15 p.m....	Barton St., Hamilton, Ont.	.....	Auto approached crossing at an excessive speed and ran through crossing gates.
Feb. 12.....	6.25 p.m....	Charlotte St., Peterboro, Ont.	Ont. 9-R-357....	Auto approaching crossing too fast considering condition of roads, and ran through lowered crossing gates.
Feb. 12.....	24.10 k.....	3rd Ave., Drumheller, Calgary, Alta...	Alta. 6-172.....	Car travelling too fast approach- ing crossing and highway con- ditions made it impossible for driver to stop car in time to avoid striking engine.
Feb. 22.....	9.55 k.....	M.P. 70-5, Endiang Sub., Calgary, Alta.	Alta. 46100.....	Driver of auto failed to make sure crossing was clear before driving onto same.
Feb. 23.....	10.40 a.m....	1st crossing west of L'Epi- phanie Station.	Que. T-3415....	Auto not brought to a stop before going over crossing and struck track motor.
Feb. 24.....	12.10 a.m....	George St., New Glasgow, N.S.	63-185.....	Auto ran into lowered crossing gates breaking off both arms
Feb. 26.....	11.50 a.m....	Pictou, Truro, N.S.....	N.S. 83-117....	Auto ran into and broke lowered gates.
Feb. 27.....	7.40 p.m....	Atwater Ave., Montreal..	Que. 1-778.....	Auto did not stop for red lamp displayed by yardman.
Mar. 10.....	3.50 p.m....	Maitland St., London East Ont.	75-D-14.....	Auto passed over crossing which was protected by watchman holding up stop sign and nar- rowly escaped being struck by yard engine.
Mar. 10.....	3.50 p.m....	Maitland St., London East	75-D-14.....	Auto passed over crossing which was protected by watchman holding up STOP sign and narrowly escaped being struck by yard engine.
Mar. 10.....	7.13 p.m....	Pillette Rd., Walkerville..	3-H-684.....	Auto approached crossing in a heedless manner and failed to see crossing watchman protect- ing against the movement of train and stalled on crossing.
Mar. 11.....	7.05 a.m....	East Main St., Welland, Ont.	591-L-8.....	Auto drove under gates while they were being lowered.
Mar. 12.....	8.05 p.m....	Highway No. 11, Mileage 83.32, Allendale, Ont.	564-P-6.....	Auto ran into car ninth ahead of caboose and seventeenth from engine. Proper whistle signals sounded.
Mar. 13.....	11.50 a.m....	Front St., Belleville, Ont..	269-U-9.....	Auto drove into lowered crossing gate.

CANADIAN NATIONAL RAILWAYS—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Mar. 18.....	11.10 p.m...	Dundas St., 7th Line, Oakville.	Ont. 978-W-3...	Auto drove through lowered gates.
Mar. 19.....	9.20 p.m...	Perth St., Brockville, Ont.	.....	Truck ran through lowered gates damaging them.
Mar. 19.....	.....	William St., Chatham.....	70-F-17.....	Auto failed to observe lowered gates, and ran through them.
Mar. 20.....	11.22 a.m...	Davenport Rd., Bathurst Stn., Toronto.	3-D-986.....	Failure to observe railway signals, crossing gates being down for passing of a train. Auto ran through them.
Mar. 23.....	10.10 p.m...	Front St., Bathurst Stn. Toronto.	.....	Auto drove between the points of gates after same were lowered.
Mar. 25.....	8.00 a.m...	John St., Aylmer, Ont.....	181-K-1.....	Auto ran through crossing gates.
Mar. 26.....	10.00 p.m...	Sherran Ave., Hamilton, Ont.	Ont. 37-A-39...	Auto approached crossing at an excessive speed, running into gate, damaging it and breaking gate lamp.
Mar. 31.....	1.00 a.m...	Lutz St., Moncton, N.B...	.....	Auto went through gate and kept on; half of one gate broken.
Apr. 2.....	11.53	Sixth Street, Brandon, Man.	53-632.....	Auto ignored stop signal when train almost at crossing.
Apr. 14.....	5.40 p.m...	Victoria St., New Glasgow, N.S.	61-371.....	Driver of auto nearly ran watchman down.
Apr. 20.....	9.20 a.m...	LaSavanne Road (near Rouville), St. Lambert.	Que. X-1463....	Auto approached and passed over crossing despite regular crossing whistle signal of oncoming freight and repeated whistle signals and continuous ringing of air-operated gong; auto cleared crossing ten feet in front of freight.
Apr. 21.....	11.08 a.m...	Water St., Summerside, P.E.I.	P.E.I. 1267.....	Ignored stop signal.
Apr. 21.....	8.35 p.m...	Pinnacle St., Belleville, Ont.	4-J-738.....	Auto drove through gate and broke it. It was necessary for the gateman to raise the other gate to allow auto off the crossing to clear oncoming train.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)
NEW BRUNSWICK DISTRICT

Oct. 9.....	12.55 p.m...	Douglas Ave., Saint John.	J-3152.....	Car went under east gate, breaking one board in same. Warning bell ringing.
Oct. 14.....	4.35 p.m...	Main St., Fairville.....	L-6471.....	Car went under east gate while being lowered; warning bell ringing.
Oct. 24.....	5.15 p.m...	Main St., Fairville.....	J-7476.....	Car went under west gate while being lowered; warning bell ringing.
Oct. 26.....	9.50 a.m...	Main St., Fairville.....	J-4042.....	Car went under gates while being lowered; warning bell ringing.
Oct. 28.....	9.20 a.m...	Main St., Fairville.....	CJ-2921.....	Truck drove up to track. When questioned, driver stated he did not think it made much difference.
Oct. 30.....	10.00 a.m...	Main St., Fairville.....	CJ-5093.....	Truck went under gates, stopped, started again and crossed ahead of engine; warning bell ringing.
Nov. 10.....	4.30 p.m...	Main St., Fairville.....	L-6761.....	Car went under west gate while being lowered; warning bell ringing.
Nov. 11.....	8.00 a.m...	Main St., Fairville.....	CJ-719.....	Truck went under one gate, continued across track and stopped at other gate; warning bell ringing.
Nov. 25.....	9.00 a.m...	Douglas Ave., Saint John.	CJ-156.....	Truck went under gates while being lowered, driver paying no attention to gates or bell which was ringing at time.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—Continued

NEW BRUNSWICK DISTRICT—Concluded

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Nov. 30.....	12.20 p.m....	Douglas Ave., Saint John.	J-6184.....	Car went under west gate while being lowered; warning bell ringing.
Dec. 12.....	8.00 a.m....	Douglas Ave., Saint John.	CJ-416.....	Truck went under gates while being lowered; warning bell ringing.
Dec. 24.....	8.00 a.m....	Main St., Fairville.....	CJ-446.....	Truck went under one gate, continued across track and stopped at other gate; warning bell ringing.
Dec. 26.....	3.25 p.m....	Main St., Fairville.....	J-4674.....	Car went under east gate while being lowered; warning bell ringing.
Jan. 12.....	6.45 p.m....	Main St., Fairville.....	J-4710.....	Car drove under east gate and stopped.
Jan. 16.....	1.15	Douglas Ave., Saint John.	J-6737.....	Car passed under gates while being lowered.
Feb. 5.....	10.00 a.m....	Main St., Fairville.....	CJ-164.....	Truck tried to go by another car and went under the gate. Watchman had to call to driver to stop.
Mar. 5.....	12.55 p.m....	Douglas Ave., Saint John.	J-6987.....	Car went under gates while being lowered. Warning bell ringing.
Mar. 6.....	1.55 p.m....	Douglas Ave., Saint John.	CJ-1042.....	Truck scraped east gates when going under them and crossed over track before stopping. Warning bell ringing.
Mar. 17.....	3.30 p.m....	Main St., Fairville.....	J-1829.....	Car drove under west gate and stopped inside.
Mar. 20.....	9.15 p.m....	Main St., Fairville.....	J-2681.....	Car drove under east gate and stopped inside of west gate.
Mar. 25.....	1.30 p.m....	Main St., Fairville.....	J-8387.....	Car, account of defective brakes, nearly ran through gate which had to be raised to avoid damage to gate.
Mar. 27.....	8.30 p.m....	Douglas Ave., Saint John.	J-5536.....	Car stopped under gates and rod on gate punched hole in top of car. Warning bell ringing.

QUEBEC DISTRICT

Oct. 1.....	11.23 p.m....	Crown St., Quebec.....	H-28034.....	Auto failed to stop and ran into and broke southeast gate arm while gates lowered, continuing on and breaking northeast gate.
Nov. 4.....	6.02 p.m....	Crown St., Quebec.....	H-277.....	Auto approached crossing and failing to stop, struck and broke arm of southeast gate. Driver stated he had not noticed lowered gate on south side although there was a red lamp on this gate and it was burning brightly at time.
Nov. 7.....	5.47 p.m....	Crown St., Quebec.....	X-1341.....	Auto moved onto crossing and struck arm of southwest gate which was being lowered. Warning bell ringing.
Nov. 27.....	.....	Montcalm St., Hull West..	Ont. 53452-C...	Truck broke two castings on gate.
Dec. 5.....	6.40 p.m....	Westminster Ave., Mtl. West.	H-13982.....	Auto failed to stop before striking arm of northwest gate.
Dec. 6.....	6.45 p.m....	Westminster Ave., Mtl. West.	H-3395.....	Auto skidded when stopping at crossing and the arm of southeast gate was broken.
Dec. 8.....	6.42 a.m....	Crown St., Quebec.....	H-2749.....	Auto moved onto crossing and struck southwest gate which was being raised, breaking the arm and casting.
Dec. 8.....	8.17 p.m....	Bonaventure St., Trois Rivieres.	Que. 55309.....	Auto failed to stop and broke gates on both sides of crossing.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—Continued

QUEBEC DISTRICT—Concluded

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Jan. 4.....		Cote de Liesse Road, Dorval.	1-697.....	Auto ran through gate hitting fence, breaking one post and a couple of boards.
Jan. 6.....	4.50 p.m.	Bridge St., Quebec.....	6930.....	Auto moved onto crossing and struck southeast gate which was broken.
Jan. 29.....	11.15 p.m.	Westminster Ave., Mtl. West.	F-1737.....	Truck skidded and failed to stop before striking northwest crossing gate.
Jan. 30.....	6.39 p.m.	Westminster Ave., Mtl. West.	L-672, F-8462...	Auto truck approached crossing and stopped just clear of southeast gate, but a second truck following close behind failed to stop and ran into the rear of first truck which came in contact with arm of gate which was broken.
Feb. 15.....	10.45 a.m.	Main St., Newport, Vt....	Conn. H-774....	Auto drove across crossing immediately ahead of train. Bell ringing and crossing tender was displaying stop signal. Party driving appeared to be confused.
Mar. 25.....	10.10 a.m.	Crown St., Quebec.....	397.....	Auto failed to stop and struck the northwest gate which was broken.
Mar. 29.....	7.40 a.m.	Westminster Ave., Mtl. West.	16017-36.....	Auto ran into southeast gate post.

ONTARIO DISTRICT

Oct. 1.....	3.20 p.m.	Richmond St., London....	T-425.....	Auto approached too fast and unable to stop in time, broke gate off.
Oct. 24.....	6.40 p.m.	Richmond St., London....	T-8620.....	Auto went through centre of gates which were lowered and crossed track in front of train. Bell ringing at time.
Oct. 26.....	5.20 p.m.	William St., Chatham....	U-7497.....	Brakes on auto failed to hold and ran into gate arm breaking same off.
Nov. 3.....	9.00 p.m.	Quebec St., London.....	T-3963.....	Auto, which had been left at top of hill without brakes applied, ran down hill into side of cars being switched over crossing.
Nov. 14.....	7.15 p.m.	Front St. and Spadina Ave., Toronto.	J-7142.....	Auto struck north point of No. 5 gate, impact causing gate to spring upward and auto continued onto crossing, stopping inside of No. 6 gate clear of track.
Nov. 16.....	10.15 p.m.	Richmond St., London....	20899-C.....	Heavily loaded truck skidded on icy pavement, going through gate arm and breaking same off. Bell was ringing at time.
Nov. 20.....	9.15 a.m.	Front St. and Spadina Ave., Toronto.	10225-C.....	Truck backed up to go north on Spadina Ave. and struck No. 5 gate.
Nov. 23.....	11.30 p.m.	Queen St., Chatham.....		Auto skidded into gate arm breaking point of it. Bell was ringing at time.
Nov. 26.....	2.40 a.m.	Richmond St., London....	OT-953.....	Driver of auto drove into southwest gate stand, badly damaging it, arrested by city police on reckless driving charge.
Nov. 28.....	4.20 p.m.	John St., Toronto.....	2823-C.....	Truck travelling west on Wellington St. turned north on John St. and struck southeast gate arm, breaking point of gate.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—Continued

ONTARIO DISTRICT—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Nov. 30.....	1.05 a.m...	Richmond St., London....	U-1061.....	Auto skidded on slippery pavement crashing into gate arm, and narrowly missed being struck by light engine.
Dec. 6.....	11.50 p.m...	Queen St., Chatham.....		Auto ran into gate arm being lowered, breaking same. Bell ringing at time.
Dec. 28.....	9.35 a.m...	Waterloo St., London....	U-2710.....	Gates down and crossing bell ringing, driver of auto made no attempt to stop, and gate-man had to raise gates to avoid them being struck, Car driven very fast, and looked as if it had no brakes.
Jan. 8.....	7.05 a.m...	Front St. and Spadina Ave., Toronto.		Truck turned east on Front St. and struck and broke No. 5 gate, located between T.T.C. tracks. Driver claimed wet condition of roadway caused truck to skid into gate.
Jan. 10.....		No. 2 Highway, east of Chatham.	133-V-3.....	In snowstorm failed to observe wigwags working or hear crossing bell ringing, auto ran into side of twenty-seventh car from van on train.
Jan. 13.....	2.50 p.m...	Wellington St., Chatham..	73-F-93.....	Auto driver disregarded Yard Foreman's stop signal and auto was struck by yard engine.
Jan. 21.....	1.40 a.m...	William St., Chatham....	89-F-58.....	Auto driver failed to notice gates lowered or hear crossing bell or engine bell ringing and ran into gate arm breaking it.
Jan. 21.....	8.30 p.m...	Waterloo St., London....	43-F-66.....	Auto ran into lowered gate crossing arm breaking it. Crossing bell ringing and gate lanterns burning. Driver said windshield blurred.
Jan. 24.....	4.45 a.m...	Tecumseh Rd., Windsor..	15-H-3.....	Auto ran into side of thirty-sixth car from engine. Wigwag and crossing bell ringing.
Jan. 30.....	1.05 a.m...	Centre St., Chatham.....	55-F-44.....	Auto ran into and broke gate arm, crossing bell ringing.
Jan. 30.....	11.53 p.m...	Front St. and Spadina Ave., Toronto.		Auto struck No. 5 gate standard, breaking standard and gate. Red light burning on standard at time, roadway wet but vision good.
Feb. 4.....	9.40 p.m...	Centre St., Chatham.....		Auto at high rate of speed crashed through gate arms, breaking them and did not stop. Crossing bell ringing.
Feb. 14.....	6.14 p.m...	Queen St., Chatham.....		Auto ran into and broke northwest gate arm but did not stop. Gates down and bell ringing.
Feb. 17.....		Tecumseh Rd., Windsor..	30380-C.....	Flagman in centre of street to stop traffic—truck drove over crossing disregarding stop signals in front of approaching yard engine.
Feb. 25.....		Richmond St., London....	2-F-631.....	Auto ran into gate and broke it near the stand. Driver said car slid on slippery road.
Mar. 2.....		Richmond St., London....		Car going north at speed of 45-50 miles an hour went through centre of south gates, also went through north gates and broke about 12 feet of north-east gate. Car never stopped.
Mar. 14.....		Queen St., Chatham.....	30-V-79.....	Auto ran into north gate arm breaking same. Gates down and crossing bells ringing.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—*Concluded*ONTARIO DISTRICT—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Mar. 31.....	6.45 p.m...	MacLennan Ave., Toronto	.....	Auto approached crossing from south at high rate of speed and drove onto crossing and had to back off.

ALGOMA DISTRICT

Jan. 1.....	6.40 a.m...	Elm St. crossing, Sudbury	LJ-751.....	Auto ran into and broke south-west gate.
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CANADIAN PACIFIC RAILWAY (WESTERN LINES)

SASKATCHEWAN DISTRICT

Oct. 1.....	11.15 K....	Broadway, Yorkton.....	T-1-380.....	Regardless of stop signal crossed in front of engine.
Oct. 2.....	11.15 K....	Broadway, Yorkton.....	69-471.....	Regardless of stop signal crossed in front of engine.
Oct. 3.....	19.40 K....	Broadway, Yorkton.....	26-600.....	Regardless of stop signal crossed in front of engine.
Oct. 3.....	18.45 K....	M. 73-7 Morse, Swift Current Sub.	57036.....	Drove into side of train.
Oct. 8.....	9.55 K....	Broadway, Yorkton.....	4-128.....	Regardless of stop signal crossed in front of engine.
Oct. 11.....	21.30 K....	Broadway, Yorkton.....	26-689.....	Regardless of stop signal crossed in front of engine.
Oct. 13.....	9.30 K....	Broadway, Yorkton.....	26-103.....	Regardless of stop signal crossed in front of engine.
Oct. 13.....	15.15 K....	Broadway, Yorkton.....	27-652.....	Regardless of stop signal crossed in front of engine.
Oct. 19.....	9.25 K....	Broadway, Yorkton.....	T-66.....	Regardless of stop signal crossed in front of engine.
Oct. 20.....	17.20 K....	Broadway, Yorkton.....	27-077.....	Regardless of stop signal crossed in front of engine.
Oct. 28.....	10.20 K....	M. 73-7 Morse, Swift Current Sub.	24060.....	Crossed ahead of train while crossing bell ringing.
Oct. 28.....	10.30 K....	M. 73-7 Morse, Swift Current Sub.	14056.....	Crossed ahead of train while crossing bell ringing.
Oct. 28.....	10.30 K....	M. 73-7 Morse, Swift Current Sub.	CV-967.....	Crossed ahead of train while crossing bell ringing.
Oct. 28.....	16.20 K....	M. 73-7 Morse, Swift Current Sub.	FV-333.....	Crossed ahead of train while crossing bell ringing.
Oct. 29.....	18.00 K....	Broadway, Yorkton.....	62-186.....	Regardless of stop signal crossed in front of engine.
Oct. 31.....	19.30 K....	Broadway, Yorkton.....	62-217.....	Regardless of stop signal crossed in front of engine.
Nov. 3.....	8.50 K....	Winnipeg St., Regina.....	7-931, T-646....	Moved over crossing when bell ringing and train approaching.
Nov. 4.....	8.50 K....	Winnipeg St., Regina.....	T-803.....	Moved over crossing when bell ringing and train approaching.
Nov. 6.....	8.50 K....	Winnipeg St., Regina.....	UT-248.....	Moved over crossing when bell ringing and train approaching.
Nov. 10.....	15.30 K....	Broadway, Yorkton.....	FV-571.....	Regardless of stop signal crossed in front of engine.
Nov. 10.....	18.30 K....	Broadway, Yorkton.....	T-145.....	Regardless of stop signal crossed in front of engine.
Nov. 11.....	8.50 K....	Winnipeg St., Regina.....	TV-1176.....	Moved over crossing when bell ringing and train approaching.
Nov. 13.....	8.48 K....	Winnipeg St., Regina.....	48-742.....	Moved over crossing when bell ringing and train approaching.
Nov. 13.....	.....	Winnipeg St., Regina.....	39-647, T-276...	Moved over crossing when bell ringing and train approaching.
Nov. 14.....	16.35 K....	Broadway, Yorkton.....	D-338.....	Regardless of stop signal crossed in front of engine.
Nov. 15.....	16.45 K....	Broadway, Yorkton.....	20-948.....	Regardless of stop signal crossed in front of engine.
Nov. 16.....	8.50 K....	Winnipeg St., Regina.....	T-915, 3-447....	Moved over crossing when bell ringing and train approaching.

CANADIAN PACIFIC RAILWAY (WESTERN LINES)—Continued

SASKATCHEWAN DISTRICT—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Nov. 20.....	8.50 K.....	Winnipeg St., Regina.....	T-598, 2-903.....	Moved over crossing when bell ringing and train approaching.
Nov. 16.....	8.15 K.....	Elphinstone St., Regina...	3-772.....	Moved over crossing when bell ringing and train approaching.
Nov. 20.....	18.50 K.....	Broadway, Yorkton.....	CV-567.....	Regardless of stop signal crossed in front of engine.
Nov. 22.....	16.30 K.....	Broadway, Yorkton.....	27-018.....	Regardless of stop signal crossed in front of engine.
Nov. 22.....	8.45 K.....	Winnipeg St., Regina.....	CV-595, 3-178, 79-568, T-850, 4-081.	Moved over crossing when bell ringing and train approaching.
Nov. 25.....	8.50 K.....	Winnipeg St., Regina.....	FV-4015.....	Moved over crossing when bell ringing and train approaching.
Nov. 25.....	14.35 K.....	Broadway, Yorkton.....	26-154.....	Regardless of stop signal crossed in front of engine.
Nov. 26.....	19.15 K.....	Broadway, Yorkton.....	84-781.....	Regardless of stop signal crossed in front of engine.
Nov. 26.....	16.30 K.....	Broadway, Yorkton.....	27-236.....	Regardless of stop signal crossed in front of engine.
Nov. 26.....	19.17 K.....	Broadway, Yorkton.....	L-145.....	Passed watchman and red light but stopped within a foot or two of striking engine.
Nov. 28.....	8.50 K.....	Winnipeg St., Regina.....	T-816, 9-057, FV-34.	Moved over crossing when bell ringing and train approaching.
Dec. 1.....	8.50 K.....	Winnipeg St., Regina.....	CV-271.....	Moved over crossing when bell ringing and train approaching.
Dec. 2.....	15.10 K.....	Elphinstone St., Regina...	71-124.....	Moved over crossing when bell ringing and train approaching.
Dec. 3.....	15.10 K.....	Elphinstone St., Regina...	V-1219.....	Moved over crossing when bell ringing and train approaching.
Dec. 5.....	15.10 K.....	Elphinstone St., Regina...	79-593.....	Moved over crossing when bell ringing and train approaching.
Dec. 7.....	15.10 K.....	Elphinstone St., Regina...	42-597.....	Moved over crossing when bell ringing and train approaching.
Dec. 7.....	8.50 K.....	Winnipeg St., Regina.....	T-706.....	Moved over crossing when bell ringing and train approaching.
Dec. 12.....	8.55 K.....	Winnipeg St., Regina.....	6-274.....	Moved over crossing when bell ringing and train approaching.
Dec. 5.....		Swift Current, Sub. M. 73.7, Morse.	P-S-V-52.....	Bus did not stop when train approaching and bell ringing.
Dec. 12.....	15.10 K.....	Elphinstone St., Regina...	7-721.....	Moved over crossing when bell ringing and train approaching.
Dec. 18.....	16.50 K.....	Elphinstone St., Regina...	3-245.....	Moved over crossing when bell ringing and train approaching.
Dec. 18.....	16.50 K.....	Elphinstone St., Regina...	6-722.....	Moved over crossing when bell ringing and train approaching.
Dec. 18.....	16.50 K.....	Elphinstone St., Regina...	517.....	Moved over crossing when bell ringing and train approaching.
Dec. 19.....	15.10 K.....	Elphinstone St., Regina...	8-827, 42-740, 76-224, 2-649, 2-859.	Moved over crossing when bell ringing and train approaching.
Dec. 19.....	9.15 K.....	Winnipeg St., Regina.....	43-525.....	Moved over crossing when bell ringing and train approaching.
Dec. 21.....	8.50 K.....	Winnipeg St., Regina.....	CV-2179.....	Moved over crossing when bell ringing and train approaching.
Dec. 22.....	16.50 K.....	Elphinstone St., Regina...	80-105, 725, 271..	Moved over crossing when bell ringing and train approaching.
Dec. 30.....	9.00 K.....	Winnipeg St., Regina.....	CV-2508.....	Moved over crossing when bell ringing and train approaching.
Jan. 9.....	8.50 K.....	Winnipeg St., Regina.....	UT-14, T-76, T-792, 3-408.	Moved over crossing when bell ringing and train approaching.
Jan. 12.....	8.50 K.....	Winnipeg St., Regina.....	2-480, 5-801, 10- 194, 994.	Moved over crossing when bell ringing and train approaching.
Jan. 22.....	9.00 K.....	Winnipeg St., Regina.....	T-121.....	Moved over crossing when bell ringing and train approaching.
Jan. 25.....	16.50 K.....	Broadway, Yorkton.....	D-338-(36).....	Moved over crossing when bell ringing and train approaching.
Jan. 26.....	18.00 K.....	Broadway, Yorkton.....	T-110-(36).....	Moved over crossing when bell ringing and train approaching.
Jan. 26.....	9.00 K.....	Winnipeg St., Regina.....	T-500.....	Moved over crossing when bell ringing and train approaching.
Feb. 8.....	11.30 K.....	Elphinstone St., Regina...	3-875.....	Moved over crossing when bell ringing and train approaching.

CANADIAN PACIFIC RAILWAY (WESTERN LINES)—*Concluded*SASKATCHEWAN DISTRICT—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
Feb. 12.....	8.45 K.....	Winnipeg St., Regina.....	Street Car.....	Moved over crossing when bell ringing and train approaching.
Feb. 17.....	8.50 K.....	Winnipeg St., Regina.....	T-72.....	Moved over crossing when bell ringing and train approaching.
Feb. 17.....	15.50 K.....	Elphinstone St., Regina...	152.....	Moved over crossing when bell ringing and train approaching.
Feb. 19.....	8.50 K.....	Winnipeg St., Regina.....	T-704, T-96, T-42, 3-486, 2-754.	Moved over crossing when bell ringing and train approaching.
Feb. 27.....	9.00 K.....	Winnipeg St., Regina.....	2-847.....	Moved over crossing when bell ringing and train approaching.
Mar. 2.....	8.50 K.....	Winnipeg St., Regina.....	2-771, 2-418, T-35.	Moved over crossing when bell ringing and train approaching.
Mar. 6.....	8.50 K.....	Winnipeg St., Regina.....	T-63, CV-265, T-603.	Moved over crossing when bell ringing and train approaching.
Mar. 6.....	19.00 K.....	Broadway, Yorkton.....	27-444 (36).....	Moved over crossing when bell ringing and train approaching.
Mar. 10.....	8.50 K.....	Winnipeg St., Regina.....	T-96. 725, 3-507.....	Moved over crossing when bell ringing and train approaching.
Mar. 11.....	15.20 K.....	Broadway, Yorkton.....	29-429 (36).....	Moved over crossing when bell ringing and train approaching.
Mar. 20.....	8.43 K.....	Winnipeg St., Regina.....	T-1011, CV-265.	Moved over crossing when bell ringing and train approaching.
Mar. 25.....	15.15 K.....	Broadway, Yorkton.....	29-461 (37).....	Disregarded stop signal and passed in front of engine.
Mar. 26.....	16.55 K.....	Broadway, Yorkton.....	26-550 (36).....	Disregarded stop signal and passed in front of engine.
Mar. 31.....	8.50 K.....	Winnipeg St., Regina.....	CV-333, 5-001, T-897, 2-754.	Moved over crossing when bell ringing and train approaching.

ALBERTA DISTRICT

Oct. 4.....	22.50 K.....	Allowance Ave., Medicine Hat.	74-102.....	Car broke south gate and struck yard engine.
Nov. 4.....	1.00 K.....	Second Street, Medicine Hat.	18-683.....	Car ran into gate breaking same.
Nov. 13.....	21.00 K.....	Allowance Ave., Medicine Hat.	D-10-388.....	Truck ran into south gate breaking west standard.
Jan. 14.....	19.45 K.....	4th St. W., Calgary.....	16539, Alta.....	Auto struck west centre gate.

STATEMENT OF MISHAPS AT PRIVATE CROSSINGS WHERE NO PERSONAL INJURY
IS INVOLVED, PERIOD FROM JULY 1 TO DECEMBER 31, 1936

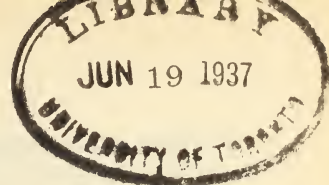
Division	Date	Location	Particulars
MANITOBA DISTRICT—			
<i>Kenora</i>	Aug. 21...	Neebing Ave., Mileage 3-25, Kam. Subd.	Coupe stalled foul of track in front of extra engine, struck by engine.
	Nov. 21...	Wabigoon, Ont., Mileage 50-5 Ignace Subd.	Truck stalled on track and was struck by train.
	Dec. 21...	Mileage 62-50, Ignace Subd.	Truck attempted to cross ahead of train. Buffer beam of engine struck rear end.
<i>Winnipeg Terls.</i>	July 22...	Ross and Arlington, Winnipeg, Man.	Auto failed to stop and in an effort to to cross track stalled foul of south rail and dump car struck front left fender.
	Dec. 20...	Talbot Ave. and Stadacona St., Winnipeg, Man.	Auto struck engine broadside just below cab.
<i>Portage</i>	Sept. 3...	Riverton, Mileage 81-9, Winnipeg Beach Subd.	Train engine ran into side of truck.
	Sept. 19...	Sidney, Mileage 93-3, Carberry Subd.	Auto ran into side of engine.
	Oct. 6...	Parkview Station, Mileage 11, Winnipeg Beach Subd.	Engine struck auto and trailer.
	Oct. 22...	Main St., Portage la Prairie, Mileage 55-6, Carberry Subd.	Auto stopped on crossing and was struck and slightly damaged.
	Nov. 19...	Winkler, Mileage 71-65, La Riviere Subd.	Auto ran into side of pilot of engine.
SASKATCHEWAN DISTRICT—			
	July 1...	First crossing north of Regina Beach Station, Colonsay Subd.	Auto came down hill out of control and struck side of engine.
	Aug. 16...	Mileage 0-8, Wilkie Subd., 20th St., West, Saskatoon.	Left foot board of engine struck auto., wigwag signal working. Bell ringing and whistle sounded approaching crossing.
	Aug. 20...	Mileage 74-7, Sutherland Subd.	Truck turned off highway on to side road and up on the track, rear coach struck fender.
	Dec. 16...	First crossing east of Wolseley Station, Indian Head Subd.	Auto ran into right front corner of pilot engine.
ALBERTA DISTRICT—			
	Sept. 3...	Whyte Ave., South Edmonton.	Auto ran into side of engine. Driver failed to stop at crossing.
	Oct. 11...	Mileage 77, Taber Subd.....	Truck and trailer drove into front end of standing locomotive, brakes on truck failed to hold.
	Oct. 24...	Pearce St., Wetaskiwin.....	Auto ran into side of engine. Driver failed to stop at crossing.
	Dec. 4...	Pearce St., Wetaskiwin.....	Auto skidded into side of car. Driver failed to stop at crossing.
BRITISH COLUMBIA DISTRICT—			
<i>Vancouver</i>	Aug. 23....	Mile 1.08, Thompson Subdn. near Kamloops.	Light delivery truck ran into side of engine. Defective brakes on auto.
	Nov. 2....	Mile 127.70, Cascade Subdn., crossing to G.N. Docks, Vancouver.	Auto passed several autos standing at crossing and was struck by yard engine.
	Nov. 10....	Smythe St. (yard crossing), Vancouver.	Disabled auto was being pushed over crossing by another auto and was struck by string of cars being pushed over crossing.
	Nov. 23....	Mile 127.18, Cascade Subdn., crossing to P. Burns, Vancouver.	Auto was struck by yard engine, very bad fog prevailing at time.
	Nov. 29....	Mile 112.2, Cascade Subdn., Shaughnessy St., Coquitlam.	Auto stopped at crossing but started up on approaching of work extra and was damaged. Driver was charged and pleaded guilty of driving to the common danger.
<i>Kootenay</i>	July 1....	Farm crossing at south end of Castlegar yard.	Auto stalled on crossing with front end foul of track, struck by engine.
	July 2....	Tadanac yard.....	When yard engine approaching crossing over wye at speed of about 3 miles per hour, Yardman saw car about 100 yards distant and signalled it to stop, but auto did not slacken speed. It swerved to right and struck rear of left trailing side rod of engine.

**STATEMENT OF MISHAPS AT PRIVATE CROSSINGS WHERE NO PERSONAL INJURY
IS INVOLVED, PERIOD FROM JULY 1 TO DECEMBER 31, 1936—Concluded**

Division	Date	Location	Particulars
BRITISH COLUMBIA DISTRICT—Conc.			
<i>Kootenay—Conc.</i>	Aug. 26 ...	Mile 92.25, Boundary Subdn. near Grand Forks.	Train approaching crossing at a speed of 30 miles per hour. observed a light truck approaching but expected it to stop as engine whistle had been sounded for crossing, and bell was ringing. Auto ran into side of mail car.
<i>Kettle Valley</i>	July 8 ...	Pentiction, Mile 133.4, Carmi Subdn., Calgary Ave. crossing.	Track motor struck by oil truck.
	Dec. 19 ...	Westminster Ave. crossing, between Pentiction and South Pentiction.	Yard engine in back up position struck old model auto.
<i>Revelstoke</i>	Sept. 8 ...	Garden St., Mile 0.51, Shus- wap Subdn., Revelstoke.	Auto ran into side of engine.
	Sept. 12 ...	Eighth St. crossing, Vernon..	Truck ran into car standing on crossing.
	Oct. 10 ...	North Street, Vernon.....	Truck loaded with gravel ran into side of engine.
	Oct. 28 ...	McKenzie Ave., Revelstoke	Auto approached crossing and struck end car of train.
	Nov. 18 ...	Mile 118, C.N.R., Okanagan Subdn.	Engine struck auto which was standing in ditch foul of crossing.

SUMMARY OF DANGEROUS PRACTICES

	Number	Per cent
Running into, through, or under lowered gates.....	84	27.0
Running over crossing while gates being lowered.....	17	5.4
Skidding into gates.....	12	3.9
Backing into gates.....	1	0.3
Running off street onto track.....	1	0.3
Ignoring flagman's stop signal.....	14	4.4
Approaching crossing at excessive speed.....	5	1.6
Attempting to cross tracks without ascertaining if crossing clear or train approaching	8	2.6
Crossing tracks in front of engine or train regardless of stop signals or bell ringing....	117	37.5
Nearly running watchman down.....	2	0.6
Stalling on crossing.....	3	1.0
Stalling foul of tracks.....	3	1.0
Running into side of engine, train or track motor.....	29	9.3
Struck by train or engine.....	15	4.8
Vehicle drove onto crossing in front of engine.....	1	0.3
	312	100.0



The Board of

Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, June 15, 1937

No. 7

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Application of the Corporation of the Township of Scarborough for an Order directing a grade separation where the Canadian National Railway intersects Victoria Park Avenue, which said Avenue is the town line between the Corporations of the Township of Scarborough, City of Toronto and Township of East York, in the County of York, Ont.; and for the apportionment of the cost thereof.

File No. 26765-152

JUDGMENT

GUTHRIE, *Chief Commissioner:*

This is an application by the Corporation of the Township of Scarborough for an order directing grade separation where the Canadian National Railway intersects Victoria Park avenue, and which avenue constitutes the boundary line between the Corporations of the Township of Scarborough, the City of Toronto and the Township of East York. The application was originally heard at Toronto in the month of June, 1936, when the railway company and the various municipalities were represented by counsel. I refer to the judgment which was pronounced by the Board on that occasion and which is dated June 13, 1936. At that time there appeared to be little or no probability that either the township of Scarborough or the township of East York would be in a position for some time to make any contribution to the cost of the subway for which application had been made, but counsel for both townships intimated that they believed that an arrangement might now be made either with the Government of the Province of Ontario or the Dominion of Canada, or with both of them, whereby certain relief monies which were to be expended in their respective municipalities might be utilized for the construction of this subway.

The judgment of the Board provided that if these townships eventually found themselves in a position to make reasonable contributions to the work proposed, the application would be considered by the Board at a subsequent hearing. On March 23, 1937, the solicitors of the township of Scarborough made application for a re-hearing of the matter, alleging that the townships were now in a position to make contributions to the construction of a subway should the Board see fit to order same. The re-hearing took place at the city of Toronto on April 20, 1937, in the presence of counsel for the townships of Scarborough and East York, respectively, for the city of Toronto and for the Canadian National Railways.

Upon the re-hearing, counsel for the township of Scarborough and counsel for the township of East York represented to the Board that these municipalities had now been assured of contributions to the above work from the Government of the Province of Ontario upon the basis of relief expenditure in these townships, to the extent necessary to enable them to pay for their proper proportion of the said work. Counsel for the city of Toronto again alleged, on behalf of the city, that the city of Toronto was not a party interested or affected in the said work within the meaning of the Railway Act and that the Board had no jurisdiction to order the city to pay any part of the cost of this work. The contention of the city of Toronto in regard to this matter, briefly stated, is that Victoria Park avenue is outside of the municipal boundaries of the city of Toronto and that the city has no control over or jurisdiction in respect thereof.

Upon the plan filed as Exhibit No. 9 by the township of Scarborough it appears that Victoria Park avenue is a highway running north and south, and in the distance between Gerrard street in the south and Danforth avenue in the north this highway is bounded on the east side by the township of Scarborough. On the west side from Gerrard street to a point approximately 200 feet north of the Canadian National Railway crossing, Victoria Park avenue is bounded by the city of Toronto, and from the northerly limit of the city of Toronto to Danforth avenue, Victoria Park avenue is bounded by the township of East York. Between Gerrard street and the northern limit of the city of Toronto lie the lands and the eight tracks of the Canadian National Railways which cross Victoria Park avenue. The railway company's property runs for about 1,200 feet fronting upon the west side of Victoria Park avenue, and is situate within the municipal boundaries of the city of Toronto and is assessed by the city of Toronto for municipal purposes. The contention of the city of Toronto is that the city limits extend only to the westerly side of Victoria Park avenue and that the city has no jurisdiction or control over the 66 feet of width which constitute Victoria Park avenue.

In support of this contention counsel for the city of Toronto allege that the village of East Toronto was annexed to the city of Toronto in the year 1908 according to the boundaries which at that date applied to the village of East Toronto. The village boundaries were originally fixed by by-law No. 508 of the county of York (Exhibit No. 2 at first hearing) in the year 1887, and by this by-law the boundaries of the village were described as extending to the western side of the town line between the townships of York and Scarborough. Mr. G. D. Le May, one of the planning commissioners of the city of Toronto, produced a plan (Exhibit No. 3 at first hearing) upon which plan is shown in heavy yellow lines the municipal boundaries of the city of Toronto according to the contention of counsel for the city. It is also contended on behalf of the city of Toronto, that under section 443 of the Municipal Act of Ontario, 1922, it was provided as follows:—

“Where land annexed to a city or town under this Act abuts on a highway, the highway shall be under the joint jurisdiction of the councils of the city or town and the adjacent municipality or municipalities.”—

and that under this provision the city had jurisdiction over Victoria Park avenue until the year 1927. By the Municipal Act of 1927 section 443 of the Act of 1922 was repealed and nothing was substituted therefor. In my opinion the essential provisions of the repealed section are all included in the provisions of sections 449 and 462 of the Municipal Act, 1927, which continued the joint jurisdiction of the municipalities over Victoria Park avenue as it had formerly existed under the repealed section. The omission of the word “abuts” in sections 449 and 462 is not important in view of the other provisions which these sections contain.

In my opinion Victoria Park avenue lying between Gerrard street and the city limit including that part of Victoria Park avenue which is crossed by the railway, forms a boundary line road between the city of Toronto and the township of Scarborough and as such is under the joint jurisdiction and control of these municipalities. That portion of Victoria Park avenue lying between the northerly limit of the city of Toronto and Danforth avenue is also a boundary line road under the joint jurisdiction of the township of East York and the township of Scarborough.

The provisions of the Municipal Act of the province of Ontario, R.S.O. chapter 233, make it clear that Victoria Park avenue is a boundary line road as above indicated. Section 443 of the Municipal Act provides:—

“ Unless otherwise expressly provided the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities the council or councils of which for the time being have jurisdiction over it.”

By section 449 it is provided that “ The councils of the local municipalities between which they run shall have joint jurisdiction over all boundary lines, etc.” Section 453 provides for agreements between adjoining municipalities for the maintenance and repair of highways forming the boundaries between municipalities; and section 462 provides that boundary lines between local municipalities shall be maintained by the corporations of such municipalities. I therefore hold that Victoria Park avenue at the point where the railway crossing is located is a boundary line road under the provisions of the Municipal Act above quoted, and that it is under the joint jurisdiction and control of the township of Scarborough and of the city of Toronto. I also hold that the city of Toronto, the township of Scarborough and the township of East York, respectively, are municipalities interested and affected in the proposed work within the provisions of the Railway Act.

There are some other circumstances which may well be considered in regard to the question of Victoria Park avenue. On a former occasion when an application was made for the protection of the railway crossing on Victoria Park avenue, the Board made an Order, No. 41172, dated July 25, 1928, whereby it was ordered that the wages of the watchman previously ordered at said crossing should be apportioned in the following manner, namely, 55 per cent to be paid by the railway company, 15 per cent by the city of Toronto, 15 per cent by the township of East York and 15 per cent by the township of Scarborough; and in the judgment of the Assistant Chief Commissioner, dated July 6, 1928, it is stated, “ Under the particular circumstances disclosed it would appear that the city of Toronto and the two townships have an interest in the matter.” It is also to be noted that the city of Toronto by by-law No. 10566, passed on October 5, 1925, authorized the construction of a sewer on Victoria Park avenue from a point 15 feet north of the south side of Gerrard street to the north city limit; and by by-law of the city of Toronto No. 10852, passed May 18, 1926, the city was authorized to borrow \$3,689.41 upon debentures to pay for the construction of the said sewer on Victoria Park avenue. In the last mentioned by-law it is recited as follows:—

“ And whereas the said portion of Victoria Park avenue is a highway forming the boundary between the city of Toronto and the township of Scarborough.”

Furthermore it is to be noted that the city of Toronto by by-law No. 10551, passed on Sept. 21, 1925, was authorized to construct pavement on Victoria Park avenue from a point 223 feet north of Kingston road to the north city limit, and by by-law No. 11250, passed on May 30, 1927, the city was authorized to borrow \$46,123 to pay for the construction of the said pavement. In the said last-mentioned by-law it was recited as follows:—

"And whereas the said portion of Victoria Park avenue is a highway forming the boundary between the city of Toronto and the township of Scarborough."

Counsel for the city of Toronto explained that the above by-laws were passed pursuant to agreements entered into by the municipalities under the provisions of the Local Improvement Act. Even so, the fact that the city passed these by-laws containing a declaration that Victoria Park avenue "is a highway forming the boundary between the city of Toronto and the township of Scarborough" adds some force to the contention that the city of Toronto is "interested or affected" in respect of the proposed subway.

Counsel for the city of Toronto submitted a traffic count which had been taken by the city of Toronto both in respect of Victoria Park avenue and in respect of Jones avenue, in the city of Toronto, and a comparative statement in regard to these crossings was filed as Exhibit No. 10. This traffic count covered a period of seven days from 6 a.m. to 12 midnight on each day, and it shows a total traffic over Victoria Park avenue crossing of 24808 in seven days, while during the same period it shows a traffic of 45035 over the Jones avenue crossing. Counsel for the city contended that if money was to be expended in crossing protection it should be expended at the crossing at Jones avenue rather than at Victoria Park avenue.

Taking the traffic count furnished by the city for Victoria Park avenue it shows an average daily traffic, including vehicular and pedestrian, for eighteen hours of 3544. It must be remembered that there are eight tracks involved at the Victoria Park avenue crossing and that train movements over this crossing are frequent both for through trains and for switching movements. According to the figures supplied by the railway there are seven passenger trains over this crossing each way daily except Sundays; four passenger trains each way on Sunday; twelve freight trains each way daily; and there are twelve pilot engines which operate over the crossing frequently each day. In addition there are ten switch movements per day, most of which switch movements go to the Ford plant which lies immediately to the north of the city boundary on Victoria Park avenue.

As the necessity for grade separation at the railway crossing on Jones avenue was strongly urged by counsel for the city of Toronto in priority to any action which might be taken in respect of the crossing upon Victoria Park avenue, I desire to say that from information on file with the Board with regard to the Jones avenue crossing there can be no doubt that the situation at that point is a serious one from the standpoint of the protection, safety and convenience of the public. On September 17, 1935, the city of Toronto made a formal application to the Board for grade elimination at the Jones avenue crossing. This project, according to the plans and estimates submitted, involved an expenditure of \$475,000, of which sum \$202,500 represented land damage. In its application the city offered to pay 25 per cent of the above cost, which would be a sum of \$118,750, and would leave a balance of \$356,250 to be supplied from other sources. On February 26, 1937, His Worship the Mayor of the City of Toronto sent a communication to the Board urging the construction of the Jones avenue work and repeating the offer of the city to contribute 25 per cent of the cost. It must be remembered that the special amount voted by Parliament during each of the last three sessions for the work of elimination and protection of grade crossings has been the sum of \$1,000,000, and this sum is applicable to grade crossings throughout the Dominion of Canada. It should also be noted that in making these annual grants for the past three years Parliament emphasized the fact that the expenditure was intended as an unemployment relief measure as well as one for the improvement and protection of grade crossings. In the estimate for the Jones avenue crossing the sum of \$202,500 is included for land damage, which could hardly be described as relief expenditure.

The Jones avenue application is still before the Board for further consideration and further negotiation with the city of Toronto. In the meantime the application in respect of the Victoria Park avenue crossing has been pressed upon the attention of the Board. I have seen fit to make special reference to the Jones avenue application because the matter was strongly emphasized by counsel for the city of Toronto at the recent hearing of the present case.

Counsel for the city of Toronto cited the case of *Toronto v. Forest Hill Village*, 40 C.R.C., p. 10, and also *Windsor v. Walkerville*, 40 C.R.C., 357; (1933) S.C.R., p. 341, in support of his contention that the city of Toronto was not a party "interested or affected" within the meaning of the Railway Act. I think each of these cases is distinguishable from the case now before the Board. In *Toronto v. Forest Hill Village* the structure in question was a bridge wholly situate within the village of Forest Hill and 500 feet beyond the nearest point of the limits of the city of Toronto. The village had entered upon a scheme for widening and paving Eglinton avenue within the village limits. It was said that a bridge forming part of the street should also be widened and paved for "the protection, safety and convenience of the public." It was held by the Supreme Court in this case that the city of Toronto was not a party "interested or affected" and should not be required to contribute to the work.

In *Windsor v. Walkerville* the Supreme Court held that the Board had no jurisdiction to order the city of Windsor to contribute towards the cost of a subway wholly within the limits of the town of Walkerville and at some distance from the city of Windsor, notwithstanding that access to and from the city of Windsor and other municipalities might be largely through this subway. It is to be noted in this case (p. 343) that the subway in question was near the easterly limit of the town of Walkerville and consequently nearly the full width of the town from the easterly limit of the city of Windsor—about 3,000 feet from the subway.

I submit that upon the ground of remoteness and of the intervening distance between the actual work and the municipal boundaries involved in the above two cases as well as upon other grounds, that these cases are quite distinguishable from the case before the Board.

I refer to the case of *Toronto v. C.P.R.*, 7 C.R.C., p. 274, and affirmed by the Privy Council (1908) A.C. 54, as to the meaning and effect of the words "a person interested or affected by the order." In this case I quote from the judgment of Meredith, J.A., in the Court of Appeal for Ontario, at p. 280, as follows:—

"The fact that the territorial limits of the city of Toronto did not extend beyond the southerly limit of the land of the railway company, and that their power over the highway in question ends there, cannot deprive them of interest in a source of great danger to persons travelling upon the highway but a few yards beyond that part of it which is vested in them, and with the keeping of which in repair they are charged. If, instead of the railway, there were a pit or a precipice there, could it be said that they had no duty to protect those lawfully using the highway against its danger? That, because it happened to be in the next parish, they were not concerned, in any way, with that danger? The road, over which they have control, is a paved invitation to the public to use it up to almost the very point of greatest danger; and up to lesser, but still considerable, danger before passing beyond their limits. We are not concerned in the extent of their interest, but that they have a substantial interest in the safety of that level crossing seems to me indisputable, unless indeed they can, and until they do, stop up the highway at their limits. It is a case of doing that, or adopting some other means of protecting traffic upon the highway either going out of or coming into the city, the highway being an invitation to use it each way. Whether

the railway company, or the railway company and the other corporation, should pay the whole of the cost of necessary protection, or the bulk of it, is not a question for consideration here. The appellants are interested, and that is all that need be determined."

This language of Meredith, J.A., has been expressly approved by the judgment of the Privy Council at p. 59. In the above case the highway was under the sole jurisdiction of the City of Toronto. In the present application Victoria Park avenue at the location of the railway crossing is under the joint jurisdiction of the city and the township.

I refer also to the case of County of Carleton against City of Ottawa, 9 C.R.C. 154, and 41 S.C.R. 552, where it was held:—

"A municipality may be a 'party interested' in works for the protection of a railway crossing over a highway though such works are neither within or immediately adjoining its bounds and the Board of Railway Commissioners has jurisdiction to order it to pay a portion of the cost of such work."

While the judgment of the Supreme Court in this case has been somewhat modified by the decision of the Privy Council in *C.P.R. v. Toronto Transportation Commission* (1930) A.C. 686, in respect to the finality of the decisions of the Board as to whether a municipality was or was not a party interested, I consider that this case is still an authority upon the finding of the Supreme Court as above quoted.

While the volume and origin of the traffic over the crossing is not a factor in determining whether a particular municipality is interested or affected by the proposed work, it is still a circumstance which should be taken into consideration in regard to the protection, safety and convenience of the public. I think there can be no doubt that a large proportion of the traffic upon Victoria Park avenue might be described as city traffic. Victoria Park avenue affords ingress and egress to the city of Toronto to and from the surrounding districts. A public market has been established at the corner of Danforth and Victoria Park avenue for the convenience both of the citizens of Toronto and of surrounding farmers. Victoria Park avenue constitutes an important thoroughfare to this market for farmers' trucks and for Toronto residents. One witness, Harry Benson, who lives on Victoria Park avenue about 150 feet north of the railway crossing, stated that on a Sunday night last autumn between nine and ten o'clock he counted 110 motor cars which passed over the crossing in ten minutes, and that most of these cars were returning to Toronto from the parks and surrounding country. Mr. John Warren, Reeve of East York, stated that in his opinion 90 per cent of the traffic over the crossing was of citizens and motors belonging to Toronto. I think these facts afford some additional ground for holding that some action should be taken in regard to Victoria Park avenue crossing from the standpoint of the protection, safety and convenience of the public.

In my opinion the application for a subway under the tracks of the Canadian National Railways upon Victoria Park avenue should be granted for the protection, safety and convenience of the public under the provisions of the Railway Act. I find that the city of Toronto and the townships of Scarborough and East York and the Canadian National Railways are all parties interested and affected by the proposed work, and should all be called upon to contribute towards the cost thereof. Upon the estimate submitted to the Board the subway will cost \$250,000 to which should be added an approximate sum of \$25,000 for land damage. I think the Board might authorize a payment equal to 50 per cent of the actual cost of the subway, but not to exceed the sum of \$125,000, out of the money provided by Parliament under Vote No. 357 of last session. In addition thereto I consider that a contribution of \$25,000 might

be made from the Railway Grade Crossing Fund under the provisions of section 262 of the Railway Act towards the cost of actual construction work. This would make a total contribution to the construction work of \$150,000 from Federal funds. Of the remaining \$125,000 (which includes land damages) I would apportion $33\frac{1}{3}$ per cent to the Canadian National Railways, $33\frac{1}{3}$ per cent to the city of Toronto, 20 per cent to the township of Scarborough, and $13\frac{1}{3}$ per cent to the township of East York. When the above work is carried to completion the Canadian National Railways and the municipalities will be relieved of the cost of protecting the crossing by watchmen as at present. The question of the future maintenance of the subway and approaches thereto as between the various parties interested therein shall be determined by the Board after the completion of the said work. The actual construction work under the crossing should be done by the Canadian National Railways, but other work involved should be done by the three municipalities above mentioned for the purpose of relieving unemployment in the district so far as it is possible to do. The order of the Board should embrace the above terms and conditions. It is important that work on this project should not be unnecessarily delayed, particularly on account of the unemployment situation which pertains throughout the district. The order should, therefore, provide that the works authorized should be commenced not later than the 1st day of July, 1937.

May 3, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 54396

In the matter of the application of the Council of the Township of Scarborough, in the Province of Ontario, hereinafter called the "Applicant," under Section 257 of the Railway Act, for an Order requiring a grade separation where the Canadian National Railways intersect Victoria Park Avenue, which said avenue is the town line between the Township of Scarborough, the City of Toronto, and the Township of East York; and for the apportionment of the cost thereof.

File No. 26765.152

THURSDAY, the 3rd Day of June, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.

F. N. GARCEAU, K.C., Deputy Chief Commissioner.

Upon hearing the application at the sittings of the Board held at Toronto, April 20, 1937, in the presence of Counsel for the Applicant, the township of East York, the city of Toronto, and the Canadian National Railways, and what was alleged,—

It is ordered:

1. That a subway carrying Victoria Park avenue under the tracks of the Canadian National Railways be constructed on the town line between the township of Scarborough, the city of Toronto, and the township of East York, in the county of York, and province of Ontario, as shown on plan dated September 30, 1930, on file with the Board under file No. 26765.152; detail plans to be filed for the approval of an Engineer of the Board.

2. That the Canadian National Railways be, and they are hereby, authorized to prepare plans and specifications and do the work of construction of the bridge supporting their tracks and any railway construction or reconstruction involved; and that the remainder of the work, including paving, be done by the applicant, the city of Toronto, and the township of East York.

3. That, with the approval of the Governor in Council by Order in Council P.C. 1218, dated May 29, 1937, fifty per cent of the cost of constructing the said subway, not exceeding, however, the sum of \$125,000, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38.

4. That the sum of \$25,000 be paid out of the Railway Grade Crossing Fund.

5. That the remainder of such cost, including land damages, be apportioned as follows, namely: Thirty-three and one-third per cent to the Canadian National Railways, thirty-three and one-third per cent to the city of Toronto, twenty per cent to the applicant, and thirteen and one-third per cent to the township of East York.

6. That the question of the future maintenance of the subway and approaches thereto as between the various parties interested be reserved for further consideration by the Board.

7. That the work herein required to be done be commenced not later than the 1st day of July, 1937.

8. That the approval of the Governor in Council by the said Order in Council herein referred to is subject to the proviso that the municipalities shall agree with His Majesty, represented by the Minister of Transport, in such form as the said minister may approve, that all persons employed in the execution of the works herein authorized shall, while so employed during the continuance of the execution of the works, be paid fair wages and that the working hours of such persons shall not exceed eight hours per day nor forty-four hours per week while so employed, all in accordance with the provisions of the Fair Wages and Hours of Labour Act, 1935.

S. J. McLEAN,
Assistant Chief Commissioner.

Application of the Canadian National Railways for an order under section 251 of the Railway Act authorizing the construction of subway at Union street, in the town of Devon, N.B.

File No. 40245.1

Heard before the Board at Fredericton, N.B., on Monday, May 10, 1937.

ORAL JUDGMENT delivered by the Chief Commissioner.

The CHIEF COMMISSIONER:

Then there will be an order of the Board for permission to construct a subway according to plans already filed, and agreed to by the municipality of Devon. The municipality will not be required to bear any part of the cost, but of course the municipality will have to bear part of the future maintenance of the highway, just as it does to-day.

ORDER No. 54293

In the matter of the application of the Canadian National Railways, hereinafter called the "applicants," under sections 251 and 256 of the Railway Act, for authority to construct a subway at Union street, in the town of Devon, New Brunswick, as shown on the plans on file with the Board under file No. 40245.1.

THURSDAY, the 13th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Fredericton, May 10, 1937, in the presence of counsel for the applicants, no one appearing for the town of Devon, and what was alleged,—

It is ordered:

1. That the applicants be, and they are hereby, authorized to construct a subway at Union street, in the town of Devon, province of New Brunswick, as shown on plan No. AA82-109.2-1.1, revised January 16, 1937, plan No. AA82-109.2-1.2, dated September 1, 1936, and plan No. AA82-109.2-1.3, dated December 28, 1936, on file with the Board under file No. 40245.1.

2. That the cost of constructing and maintaining the proposed subway be borne and paid by the applicants, the cost of maintenance of the roadway to be paid by the town of Devon.

H. GUTHRIE,
Chief Commissioner.

Application of the Canadian National Railways for an Order, under section 251 of the Railway Act, authorizing the construction of a subway at Queen street, Fredericton, N.B., and apportioning the cost thereof.

File No. 40245.2

Heard before the Board at Fredericton, N.B., on Monday, May 10, 1937.
ORAL JUDGMENT delivered by the Chief Commissioner:

If there is nothing further to be said, the order of the Board will be that the railway be permitted to construct a subway according to the plans, that the railway bear all costs of construction of the subway except in regard to water mains, sewage mains and electrical fixtures, as I mentioned a moment ago; that the future maintenance of the sidewalk and the roadway be upon the municipality as it is now, and the future maintenance of the subway structures be upon the railway company.

The city of Fredericton is going to be a gainer in regard to the construction of this subway. That bridge is to be elevated five feet. A serious flood took place here in the spring of 1936, such a flood may be repeated in the future unless that bridge is raised. The mere fact that that bridge is to be raised five feet is I would think a matter of the greatest consequence to the city of Fredericton; the subways are going to be a distinct asset to the city in future, so in imposing these terms on the city in regard to water mains, sewage mains and electrical fixtures we think we are making a very reasonable order, and it is made in this particular case without regard to the general principles which have been established by the Board in so many cases in regard to subways.

That will be the order of the Board. This letter will be left with the Board as an exhibit.

ORDER No. 54300

In the matter of the application of the Canadian National Railways, hereinafter called the "applicants," under section 251 of the Railway Act, for authority to construct a subway at Queen street, in the city of Fredericton, province of New Brunswick, and for the apportionment of the cost thereof.

File No. 40245.2

FRIDAY, the 14th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Fredericton, May 10, 1937, in the presence of counsel for the applicants and the city of Fredericton, and what was alleged,—

It is ordered:

1. That the applicants be, and they are hereby, authorized to construct a subway at Queen street, in the city of Fredericton, province of New Brunswick, as shown on plans numbered AA82-109.7-1.1, dated January 16, 1937, AA82-109.7-1.2, dated January 16, 1937, AA82-109.7-1.3, dated January 11, 1937, AA82-109.7-1.4, dated January 11, 1937, AA82-109.7-1.5, dated September 1, 1936, and AA82-109.7-1.6, dated January 11, 1937, on file with the Board under file No. 40245.2; all the work, including pavement and sidewalks, to be performed by the applicants.

2. That the applicants bear and pay the cost of constructing the proposed subway and the cost of constructing the pavement and sidewalks through the same; the city of Fredericton to provide, at its own cost, all electrical fixtures necessary to light the said subway, and the said fixtures are to be installed by and at the expense of the applicants. The city of Fredericton shall also perform, at its own expense, all work necessary to change water mains and sewer mains.

3. That the cost of future maintenance of the subway structure be upon the applicants, and the cost of future maintenance of sidewalks and roadway, and of lighting and drainage, through the subway be upon the city of Fredericton.

H. GUTHRIE,

Chief Commissioner.

In the matter of the application of Montreal Light, Heat and Power Consolidated for an Order directing the Canadian National Railway Company to reimburse it for expenses incurred in altering, reconstructing, moving or abandoning its plant on St. Remi, Charlevoix, Hibernia, Mountain, Guy, St. Maurice, Ottawa, William, St. Paul, Wellington, St. James, Notre Dame, Magdalen, Bourgeois, Canning, Chatham, Seigneurs, St. Martin, Richmond, Lusignan, Versailles and Aqueduct Streets in the City of Montreal arising out of the work on the Montreal Terminals project of Canadian National Railway Company.

AND

In the matter of the application of the Bell Telephone Company of Canada for an Order directing Canadian National Railway Company to reimburse it for expenses incurred in altering, reconstructing, moving or abandoning its plant on Ottawa, Mountain, Richmond, St. Martin, Seigneurs, Chatham, Canning, Charlevoix, Hibernia, Bourgeois and Magdalen Streets in the City of Montreal arising out of work on the Montreal Terminals project of Canadian National Railway Company.

(File No. 9437.319.46)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

By an application, dated August 12, 1936, Montreal Light, Heat and Power Consolidated made application to the Board claiming to be reimbursed by the Canadian National Railway Company of its loss, costs and expenses amounting in all to the sum of \$39,313.34 together with interest thereon until time of payment, in respect of certain works performed by the applicant in connection with the scheme of the Canadian National Railways under the provisions of chapter 12 of 19-20 Geo. V. The Bell Telephone Company of Canada by an application, dated the 18th day of August, 1936, made a similar application to the Board claiming to be reimbursed by the Canadian National Railways to the extent of the various amounts set out more particularly in the said application, for works done by the applicant in connection with the above scheme which was being carried out by the Canadian National Railways at the city of Montreal.

As the same questions are to a large extent involved in both of these applications, it was decided that they should be heard together and they were heard by the Board at Montreal on the 7th and 8th days of April, 1937, in the presence of counsel for the applicant companies, respectively, and also in the presence of counsel for the Canadian National Railways.

The statute of 19-20 Geo. V is known and cited as the Canadian National Montreal Terminals Act, 1929, and by section 2 of the said Act it is provided as follows:—

"2. The Governor in Council may provide for the construction and completion by the Canadian National Railway Company (hereinafter called the Company) of terminal stations and offices, local stations, station grounds, yards, tracks, terminal facilities, power houses, pipes, wires and conduits for any purpose, bridges, viaducts, tunnels, subways, branch and connecting lines and tracks, buildings and structures of every description and for any purpose, and improvements, works, plant, apparatus and appliances for the movement, handling or convenient accommodation of every kind of traffic, also street and highway diversions and widenings, new streets and highways, subway and overhead streets, and also approaches, lanes, alleyways, and other means of passage, with the right to acquire or to take under the provisions of section nine of this Act or otherwise lands and interest in lands for all such purposes, all on the

Island of Montreal in the Province of Quebec, or on the mainland adjacent thereto, as shown generally on the plan or plans thereof to be from time to time approved by the Governor in Council under the provisions of section seven of this Act; the whole being hereinafter referred to as 'the said works,' and a short description whereof for the information of Parliament but not intended to be exhaustive, being set out in the schedule hereto."

A short description of the works to be performed under the said Act for the information of Parliament but not intended to be exhaustive was set out in the schedule attached to the said Act, and for the purposes of these applications subsections (b), (d), (e) and (f) are quoted as follows:—

"(b) Viaduct and elevated railway between Inspector and Dalhousie Streets, and St. David's Lane and Nazareth Street to near Wellington Street, and thence along Wellington Street to Point St. Charles Yard and Victoria Bridge, crossing over existing streets, and with connections to existing railway facilities and Harbour Commissioners' trackage;

"(d) Grade separation by means of elevated, or depressed, or underground tracks, or streets, as may be determined on the existing railway between Bonaventure and Turcot and connection to the viaduct referred to in paragraph (b);

"(e) Grade separation by means of elevated, or depressed, or underground tracks, or streets, as may be determined between St. Henri and Point St. Charles;

"(f) Railway from Longue Pointe yard to the Northwest and thence Southwest to connect with the existing railway at and near Eastern Junction;"

It is also provided in the said schedule that nothing therein contained is to be taken to restrict the general powers of the company as expressed in the said Act or other Acts relating to the company.

Under the provisions of section 3 of the above Act the company was authorized to issue securities in respect of the construction and completion of the said works upon the guarantee of the Government of Canada, up to an amount not exceeding \$50,000,000, as in the said section more fully set out, and under the authority of the said Act the company proceeded with the said works in the city of Montreal, and while carrying out the project the company found it necessary to obtain from the Board permission for the removal of certain plant and equipment of the applicants which had been placed upon and under certain streets in the city of Montreal to enable the applicants to conduct their respective enterprises. From time to time orders were obtained from the Board, upon the application of the company, ordering the removal of the plant and equipment of both the applicants, and in each instance where Orders of the Board were made for such removal the question of the cost involved in such removal was held over for further consideration by the Board. The question involved in both of these applications is whether the costs of removal should be borne by the applicants, or either of them, or should be paid in whole or in part by the railway company.

In the year 1928 the Canadian National Railways, with the approval of the Government, engaged the services of Mr. F. Palmer, of London, England, an eminent English engineer, to make a report upon the terminal facilities of their railway in the city of Montreal. Mr. Palmer made his report on January 31, 1929. This report was filed as Exhibit No. 26 upon the present applications, and the first four paragraphs of the report, which bear upon the matters in question in these applications, are as follows:—

"1. The terminal passenger accommodation at Montreal on those railways which became absorbed in the amalgamation constituting the Canadian National Railways exists to-day probably as first constructed many years ago, and can now only be described as quite obsolete. To meet this situation a plan has been formulated by which the site of existing 'Tunnel' Station has been adopted for a Central Station, to which trains from the west now using Bonaventure Station are to be brought by a new line connecting Pointe Claire to Val Royal, and by the Tunnel line under Mount Royal. Trains from the south and east, also at present using Bonaventure Station, are to be diverted from the west end of the Victoria bridge over the St. Lawrence river, and brought into the south end of the proposed station, while a connection, turning east from the new approach to the Victoria bridge, serves to connect with the east-going trains which at present have their terminus at Moreau Street Station.

"2. The right of way from the Tunnel Station southwards was, in part, already in the possession of the National Railways, as also were certain properties adjacent which had been acquired from time to time recently in view of the necessity for providing new terminal facilities, while the right to take up further land required for the scheme has been secured by the usual notice of expropriation.

"3. The necessity for rehabilitating the passenger terminal facilities was made the more insistent because of the requirement of the Board of Railway Commissioners to submit proposals for the abolition of level crossings in the city of Montreal, of which there are over twenty in the short distance (about 2 miles) between Bonaventure terminus and Turcot, where the railway separates the north side from the south, west of that terminus. There are also nearly fifty level crossings on the line running eastward from Moreau Street Station, the elimination of which has become more easily possible by a tentative arrangement recently suggested, whereby some measure of joint user of facilities might be entered into by the two railway systems.

"4. The plan prepared by the National Railways, already referred to, deals very efficiently with the grade crossing difficulty, as it exists to-day, between Bonaventure and Turcot Stations. The seven principal streets running from north to south are taken across the tracks by over- or under-bridges, while the crossings of the minor streets are closed. As the railway is paralleled on the north by St. James' street and on the south by Notre Dame street, both closely adjacent to the line, the minor road crossings can be so dealt with, without seriously interfering with road traffic between north and south, and the solution offered seems not only practicable but also reasonable."

It is also to be noted that this report contains an estimate of the cost of the proposed work, which is set out at pages 8 and 9 of the report. The estimate furnished by Mr. Palmer seems to include all the work to be done in respect of those portions of the terminals which are involved in these applications. This report was submitted to Parliament before the passage of the Terminals Act.

Soon after the passage of this Act the railway commenced work upon the project, and the Board made certain orders, above referred to, directing the utility companies to remove their plants upon certain streets in the city of Montreal. From these orders of the Board the present applicants appealed to the Supreme Court of Canada upon the ground, among others, that the Board had no jurisdiction to make such orders. It was contended by the applicants that the Board's powers under the Railway Act were displaced by the Terminals Act, but it was held by the Supreme Court of Canada (S.C.R. (1932), p. 222 and 39 C.R.C. 186) that the purpose of the Terminals Act was to give parlia-

mentary sanction to the scheme as a whole and to provide means of raising the necessary capital. It was held that the Board had jurisdiction with respect to the crossings which might be involved under the relevant sections of the Railway Act. The case was further appealed by the utility companies to the Judicial Committee of the Privy Council, and the judgment of the Privy Council, delivered by Lord MacMillan (1933), A.C., p. 563, and reported in 41 C.R.C., p. 170. After stating the facts leading up to the appeal to the Privy Council, Lord MacMillan uses the following language:—

“It appears from the statement of facts that the Canadian National Railway Company some time ago prepared a comprehensive scheme for the readjustment and improvement of their terminal facilities in the city of Montreal. The Government obtained a report on the whole project from an eminent British engineer and thereafter an Act was passed entitled the Canadian National Montreal Terminals Act, 1929.”

The judgment of the Privy Council upholds the jurisdiction of the Board in respect of the Terminals Act under the various sections of the Railway Act which deal with railway crossings, and also in respect of the general powers of the Board as set out in sections 39, 256, 257, and 259 of the Railway Act, and, in my opinion, under these sections a discretion is vested in the Board in respect of any apportionment of cost which the Board may see fit to make in respect of the claims arising upon these applications.

The general principle upon which the Board has acted for many years may be briefly stated as follows: When an application is made for grade separation by a railway company, or by a municipality, either for the greater convenience or facility of the applicant in the movement of traffic or for the rearrangement of streets and which may ultimately result in affording greater protection and safety to the public who use the crossing, the Board deems that the matter of greater convenience or improved facility to the applicant constitutes the main purpose of the application, and that improved crossing protection is merely incidental to the main purpose. In such cases where the removal of the plant and equipment of utility companies is ordered, the cost of such removal is placed upon the applicant. Upon the other hand, where the paramount reason for grade separation appears to be the protection, safety, and convenience of the public in the use of the crossing, and where the removal of the plant and equipment of utility companies becomes necessary, the Board has decided in many cases that under such circumstances the cost of removal and erection of equipment should be borne by the utility companies. While it is true that utility companies neither create nor aggravate the danger at grade crossings, nor do they benefit from grade separation, the Board has always considered that where the project is in reality *pro bono publico*, utility companies should bear the expense of moving their plant and equipment for the free use of streets enjoyed by them.

The decisions of the Board in regard to the St. Clair Avenue subway at Toronto and in regard to the subway at Gerrard street east in the city of Toronto were discussed at length by counsel for the applicants and for the railways upon the hearing. The St. Clair Avenue case is reported in Volume 40, C.R.C., p. 29, and the Gerrard Street case is reported in Volume 43, C.R.C., p. 214. In the St. Clair Avenue case the public utility companies were ordered to bear the expense consequent upon the removal of their plant and equipment. In the judgment in that case the Chief Commissioner points out that the Board has held in numerous cases during the past twenty years that the utility companies should move their plants at their own expense where the works involved were works essentially for the security, safety, and convenience of the public. In that aspect of the matter it was held that utility companies who had enjoyed the use of the city streets should contribute something towards the security, safety, and convenience of the public.

The circumstances under which the order of the Board was issued for the construction of a subway under Gerrard street East, in the city of Toronto, as set out at pages 216-217 of the report, were somewhat similar to those under which the railway obtained permissive orders from the Board for the construction of subways upon and alterations in respect of the streets involved in the present applications. In the Gerrard street case the city of Toronto and the Canadian National Railway jointly applied for an order to authorize the construction of the subway, and an order was granted authorizing same. No notice was served upon the utility companies who would be affected by the works. The Board did not investigate the conditions at the point of crossing to determine whether or not the proposed subway was necessary for public protection, and the order was not made for such purpose. The city and the railway company had really decided upon the work for the purpose of improving conditions in the city, and as a railway crossing was involved which required the approval of the Board, they applied jointly for such approval. I quote from the judgment of the Assistant Chief Commissioner at p. 217 of the Gerrard street case, as follows:—

“That public safety and protection is the foundation for the exercise of the Board’s power to assess any part of the cost of works authorized or ordered by it against interested or affected parties is made clear in the Supreme Court of Canada judgment in *Toronto Railway Company v. Toronto & C.P.R.* (1916)), 20 C.R.C. 280, 30 D.L.R. 86. After discussing the *British Columbia Electric* decision, which the Court distinguished, the Chief Justice, at p. 282 C.R.C., p. 88 D.L.R., says:—

‘Now the facts in the present case are wholly different. It is abundantly clear from the record that the substantial and indeed I think I may say only, reason for the order of the Railway Board for this grade separation was the elimination of dangerous crossings:—

“Davies, J., at p. 283 C.R.C., p. 89, D.L.R.:—

‘The main question of the jurisdiction of the Board to make the order involves the constitutionality of the provisions of the Railway Act under which it professedly was made, and also involves the questions whether, assuming the sections to be constitutionally valid, the order of the Board was really and truly made under its paramount power of providing at railway and highway crossings for the safety and protection of the public, or whether the subway at Avenue Road was a matter really and practically of street improvements merely, the costs of which the appellants could not be obliged to contribute to.’”

It was held in the Gerrard street case that public utility companies should be reimbursed for the expenses incurred and paid by them for the removal and replacement of their facilities, necessitated by the work involved in the location and construction of the subways.

By way of answer to the claims made by the applicants in each of these applications, the Canadian National Railway Company has submitted that the scheme sanctioned under the Act above mentioned was not exclusively or primarily a re-organization of the terminal facilities of the National Railways in the city of Montreal, but alleges that for many years prior to 1912 there had been a public demand for grade separation at highway crossings between Bonaventure and Turcot streets and between St. Henri and Point St. Charles upon the line of the Grand Trunk Railway, and that the Board on June 18, 1912, authorized grade separation between Bonaventure and Turcot by means of elevated railway tracks. Nothing resulted from this order and the matter was again brought before the Board in the year 1915 when it was urged on the part of the railway company that on account of the financial situation which existed largely through war conditions that the railway had been precluded from commencing work

upon the above subdivision and that all parties concerned had tacitly consented in order to maintain the status quo. It is also alleged by the railway company that this question was again brought before the Board in the year 1925, and that early in 1927 a hearing was held in Montreal upon the initiation of the Board and that an Order, No. 39079, was issued dated May 27, 1927, authorizing the Chief Engineer of the Board "to make an inquiry and report upon the whole level crossing situation in Montreal, to report progress and to evolve a scheme for the consideration of the Board," but nothing seems to have been done under this order of the Board and no report was ever made by the Chief Engineer. In addition to the above the railway company asserts in answer to the applications a variety of allegations in regard to the works done by the applicants upon the various streets particularly mentioned in the applications, but at the moment it is not necessary to deal with these allegations in detail.

In my opinion the first question to be decided in regard to these applications is whether the work performed by the railway was essentially designed for the protection and convenience of the public at the various grade crossings in the city of Montreal which were affected by the general scheme, or whether the whole work was not one designed for the readjustment and improvement of the terminal facilities of the railway company in the city of Montreal. If the work was designed essentially for the purpose of grade crossing protection, in my opinion, following the authorities upon the subject and the general practice in such matters of this Board, the applicants cannot reasonably claim to be reimbursed for the cost of removal of their plant and equipment from the streets affected. They should each be called upon to contribute the cost of such removal for the purpose of granting protection and safety to the public at grade crossings. But, on the other hand, if the paramount purpose of the scheme authorized by the Act above referred to was the readjustment and improvement of the terminal facilities of the railway company in Montreal, the protection at grade crossings being only incidental to the general purpose, then I consider that, under the authorities and the practice of this Board, the railway company should pay the cost of the removal of plant and equipment as a part of the cost of the work authorized by Parliament.

There is no doubt that for many years there was an agitation in the city of Montreal for the improvement of grade crossings over the tracks of the Grand Trunk Railway. The city of Montreal seems to have taken a deep interest in this matter, and was authorized by an Act of the Legislature of the Province of Quebec to expend a sum of two million dollars by way of contribution towards a scheme for the elimination of grade crossings in the city of Montreal. While there were a number of applications to the Board in regard to the matter, nothing ever resulted from these proceedings. However, after the passage of the Canadian National Montreal Terminals Act in the year 1929, the whole question of grade separation assumed a new aspect and became merged in the general scheme for improvement and rearrangement of the railway's terminal facilities in Montreal. Following the passage of the said Act the railway took active steps to carry out a number of the works in the city of Montreal authorized by the said Act. The railway company obtained the approval of its general plan for the whole work as provided in the said Act, including the particular works mentioned in paragraphs (b), (d), (e) and (f) of the schedule attached to the said Act, and an estimate of the total cost of each of these works was included in the special estimate of \$51,400,000 submitted to Parliament. Schedules (b), (d), (e) and (f) include all the works in regard to which the respective applicants now make claims for reimbursement. In the year 1929 and during the early part of the year 1930, a number of applications were made to the Board by the railway company for orders directing the applicant companies to remove their plant and equipment from the various streets mentioned in the applications, and in each instance where orders were made directing the removal of plant and equipment, the question of the cost of such removal was reserved

for the subsequent consideration and decision of the Board. These applications were made to the Board by the railway *ex parte*. The utility companies were not notified of same but after the order for removal was served upon them, the utility companies complied with the terms of the order and removed their plant and equipment and the work was then proceeded with by the railway company.

Counsel for the railway made special reference to the language employed in section 7 of the Terminals Act with regard to "contributions" and submitted that the words used in this connection contemplated contributions or payments by utility companies, as well as by municipal corporations, towards the cost of the work. I do not agree with this opinion.

It is to be noted that section 7 of the said Act makes provision that all "contributions" made toward the cost of the said works under section 8, or "from any other source," shall be deposited to the credit of the Minister of Finance, and section 8 of the said Act provides that the railway company may, with the approval of the Governor in Council, enter into an agreement with the city of Montreal, or with any other municipality, with respect to the opening of new streets, the closing of existing streets and ways, the making of diversions or widening of such streets or highways, and the making of sub-streets, subways or overhead facilities in connection with such streets or highways, and the apportionment of the cost thereof. It was clearly the intention that under the general scheme that the city of Montreal, or any other municipality interested, might retain some control in regard to the manner in which streets were to be dealt with, and might also be called upon to make contributions in respect thereof, but there is nothing in the Act in regard to any contributions from public utility companies. The words "from any other source" in section 7 might possibly apply to a contribution from the Railway Grade Crossing Fund or from companies or persons who might be directly benefited by the erection of bridges, subways, etc., but I do not consider that any contribution was contemplated from utility companies in the language used in section 7.

Considerable information was placed before the Board at the hearing, dealing with the question of seniority in respect of the various streets and crossings comprised in these applications. In my view of the matter, the question of senior and junior rights does not arise in these cases, which involve only claims by utility companies not for permission to enter upon, go over, under or across railway property or municipal streets, but for reimbursement for necessary outlay in carrying out the orders of the Board. As between the railway and the various municipalities the question of seniority may be an important matter for consideration. But the present applications do not involve in any manner questions as between the railway and the various municipalities. I do not think that the question of seniority need be further considered at the present time.

My view of the situation in regard to the questions which arise in the present applications is that the protection, safety and convenience of the public was not the paramount consideration which caused these works to be undertaken, but that they were undertaken, as stated in the judgment of the Privy Council, as a part of a comprehensive scheme for the readjustment and improvement of the terminal facilities of the railway in the city of Montreal. Any protection of railway crossings which might ultimately result from the carrying out of the work was purely incidental to the general scheme. It may have been to some extent a contributing factor but it certainly was not the paramount consideration.

I think the whole terminal scheme should be considered as a single definite project for the betterment of the railway terminal facilities in Montreal. The estimates submitted covered the whole undertaking. The whole work was to be financed by the railway under the provisions of the Terminals Act, save in respect of contributions which might be made as provided in sections 7 and 8 of the Act.

In my opinion each of the applicants is entitled to be reimbursed for its reasonable and necessary expenditure incurred and paid in the removal and replacement of its facilities pursuant to the orders made from time to time by

the Board. I think the applicants are also entitled to be paid interest upon the various amounts expended by them from the date of such payments until the date of repayment at the rate of $3\frac{1}{2}$ per cent per annum. This would appear to be a fair rate of interest having regard to prevailing conditions.

From the evidence and the statements placed before the Board as to the claims of the applicants, respectively, in regard to the works performed by the applicants upon the various streets in Montreal, pursuant to the orders of the Board, it would be difficult if not impossible for the Board to decide whether the claims made by the applicants in respect of the various sections of the work are reasonable and whether the work performed was necessary under all the circumstances. I think these are matters which should be inquired into and reported upon by the engineers of the Board. I gather from what was said by counsel at the hearing that the applicants and the railway will approve such an inquiry. Inquiry should be conducted in respect to each of the claims of the applicants, to ascertain whether the work performed by the applicants was necessary work and whether the amounts charged therefor are fair and reasonable. Applicants should furnish accounts and vouchers as may be required. Inquiry should also be made as to whether either of the applicants has derived any benefit, and, if so, to what extent, from construction of new plant and equipment to replace plant and equipment formerly in use. The inquiry should include all questions which may arise where streets have been closed, grades altered, railway right of way enlarged, lines of railway increased and cases where properties have been purchased by the railway and building and structures thereon demolished. When this inquiry has been concluded and report made thereon by the engineers appointed by the Board, the Board will finally determine the amounts to be paid the respective applicants in respect of their claims.

As the Corporation of the City of Montreal was not a party to these applications and was not represented at the hearing, the order to be made upon these applications shall be for payment of the amounts found due as above to the applicants by the Canadian National Railways, but without prejudice to any rights which the Canadian National Railways may have against the City of Montreal or which the City of Montreal may have against the Canadian National Railways in respect of the payments to be made under the terms of this order, or in respect of any other questions involved in the said application.

April 23, 1937.

In the matter of the application of the Montreal Light, Heat and Power Consolidated and the Bell Telephone Company of Canada for orders directing the Canadian National Railways to reimburse them for expenses incurred in altering, reconstructing, moving, or abandoning their respective plants on certain specified streets in the City of Montreal arising out of the work on the Montreal Terminals project of the Railway Company.

File No. 9437.319.46

STONEMAN, COMMISSIONER:

The judgment of the Chief Commissioner clearly sets out the principle upon which the Board proceeds in distributing the cost where the moving of public utilities has been rendered necessary by the construction of works authorized by the Board, and applying that principle to the circumstances of this case I fully concur that the applicants should be reimbursed their reasonable and necessary expenditures incurred and paid in the removal and replacement of their facilities pursuant to the orders made by the Board from time to time.

I agree, also, that the amounts so expended should bear interest at the rate of three and one-half per cent per annum from the dates of payments to the dates of repayments.

As, however, this cost will form part of the total cost of the work to which the city of Montreal may be called upon to contribute, I think the order giving effect to the judgment for reimbursement should make it clear that the amounts so reimbursed are to be included as forming part of the cost of the work. The question of apportionment of such cost between the railway company, the city of Montreal, and/or any other municipal corporation interested to be reserved for subsequent consideration and decision by the Board.

April 24, 1937.

In the matter of the application of Montreal Light, Heat and Power Consolidated for an Order directing the Canadian National Railway Company to reimburse it for expenses incurred in altering, reconstructing, moving or abandoning its plant on St. Remi, Charlevoix, Hibernia, Mountain, Guy, St. Maurice, Ottawa, William, St. Paul, Wellington, St. James, Notre-Dame, Magdalen, Bourgeois, Canning, Chatham, Seigneurs, St. Martin, Richmond, Lusignan, Versailles and Aqueduct Streets in the City of Montreal arising out of the work on the Montreal Terminals project of Canadian National Railway Company.

AND

In the matter of the application of the Bell Telephone Company of Canada for an Order directing Canadian National Railway Company to reimburse it for expenses incurred in altering, reconstructing, moving or abandoning its plant on Ottawa, Mountain, Richmond, St. Martin, Seigneurs, Chatham, Canning, Charlevoix, Hibernia, Bourgeois and Magdalen Streets in the City of Montreal arising out of work on the Montreal Terminals project of Canadian National Railway Company.

File No. 9437.319.46

GARCEAU, DEPUTY CHIEF COMMISSIONER: (Dissenting)

With due deference for a different opinion, I agree with the allegations contained in the answer of the Canadian National Railways, which allegations are corroborated by documents on the various files considered by the Board on May 10, 1927, by the orders made by the Board in that connection, by the general plan approved by the Governor in Council, by the evidence heard at the sittings of April 7 and 8, and which read as follows:—

“(1) For many years prior to 1912 there had been a public demand for grade separation at highway crossings over the part of the National Railways (then the Grand Trunk Railway) between Bonaventure and Turcot, and between St. Henri and Point St. Charles, within the Montreal Terminal area. In that year the matter was considered somewhat comprehensively by the Board and following a hearing at Montreal on June 18, 1912, a direction was made which among other things, authorized grade separation between Bonaventure and Turcot by means of elevated railway tracks and general plans prepared by the Railway provided accordingly. The working of details, the question of the number of streets to be left open, the distribution of the cost, the consideration of special conditions at a number of the crossings involving engineering problems, the usual difficulties and delays in obtaining agreement on various features among many interested parties, and a growing controversy as to the mode of separation proposed, kept the project under study and discussion until the end of the year 1915. At that time the financial situation in Canada, owing to the exigencies of the war, was such as then to preclude the commencement of the work by the Railway and with the tacit consent of all concerned it was allowed to stand.

"In the year 1925, the matter was revived before the Board on behalf of the public and thereupon the Board set in motion a renewal of its consideration. Early in 1927 a hearing was held in Montreal as a result of which Order No. 39079 was issued under date of May 27, 1927, appointing and authorizing the Chief Engineer of the Board 'to make an inquiry and report upon the whole level crossing situation in Montreal, to report progress and to evolve a scheme for the consideration of the Board.' At this hearing it was admitted by the National Company that action would be necessary to carry out the general purpose of the direction of the Board made in 1912.

"In 1923 the Grand Trunk Railway System and the Canadian Northern Railway System, which were then under the control of the Government of Canada, as well as the Canadian Government Railways, came under a unified administration by the National Company (with which the Grand Trunk Railway Company of Canada was amalgamated in the year 1923), under a descriptive group name of Canadian National Railways. As each of the two systems mentioned had separate terminal facilities in Montreal it had, by 1927, become apparent that the economical and efficient operation of the National Railways within the Montreal terminals called for an integration of those facilities. There were thus two objectives presented to the railway administration to be achieved; first, the fulfilment of the long standing project of grade separation, which by this time had widened to include the Moreau Street station line of the Canadian Northern Railway, and secondly, the consolidation of terminal operations. In the scheme proposed and mentioned in the application the first objective is in fact intended in part to be attained by means of the second. The grade separations between Bonaventure and Turcot and St. Henri and Point St. Charles are to be effected, first, by means of a limited number of overhead bridges and subways, and secondly, by the diversion of certain train movements from the tracks between these points which will so reduce the hazard at the remaining crossings as to warrant the continued operation thereover at grade. The terminal rearrangement proper is seen therefore, among others, to have two functions: first, to serve as a means of effecting in part the purpose of the original grade separation scheme, and secondly, to unify, in the interest of economy and efficiency, the facilities and operation of the National Railways within the terminal.

"Under the scheme, the National Company between Bonaventure and Turcot, and St. Henri and Point St. Charles, maintains its works intact and the grade separation between these points *is distinct and severable* from the facility reorganization. As stated, the latter plays toward the former, the part merely of an auxiliary and indirect means of reducing the crossing inconveniences and hazards. It is, in this aspect, in the same category as the overhead highway bridges and subways which are mentioned in the application and are hereinafter dealt with.

"Overhead bridges at Guy and Mountain and subways at St. Remi, Charlevoix and Hibernia Streets, part of the general project, were accordingly constructed under the authority or orders of the Board made under Section 257 of the Railway Act for the safety, protection and convenience of the public and in pursuance of the general obligation formulated by the Board in the year 1912, and thereafter dealt with as hereinbefore set forth.

"It is a matter of public knowledge that work on that part of the general scheme intended to co-ordinate facilities has been suspended since 1930, but even the abandonment of that part would not, in any degree, affect the *grade separation mentioned or the necessity to bring about,*

by other means, at the remaining crossings, appropriate safety, protection and convenience of the public, as contemplated by the direction of the Board in 1912.

"The Terminals Act mentioned in the application is a Special Act formally authorizing the general scheme of works mentioned therein which was to be carried out in accordance with and under the provisions of the Railway Act; and the moneys authorized therein to be raised were to be available for such part of the cost of the works as was not by the Board directed or by Agreement provided to be borne by other parties than the National Company."

The following quotations are a complete and direct answer to the applicants' contentions that grade separation between Bonaventure and Turcot and between St. Henri and Point St. Charles, are not distinct and severable from the terminal facilities and that the various overhead bridges and subways were not built for the safety, protection and convenience of the public:—

Board's ruling of March 22, 1927:—

"Ordered that these applications be set down to be spoken to at a meeting of the Board, to be held in the City of Montreal, on Tuesday, the 10th day of May next, at 10.30 a.m., at which the Canadian National Railways, the City of Montreal and the various applicants will be required to be present and submit their views, and such plans, estimates, documents and data as may be necessary for consideration by the Board of a comprehensive scheme to provide—

"(a) For the elimination in the interests of *public safety* and pursuant to the provisions of the Railway Act in that behalf, of all level crossings, in the City of Montreal, on the line of the Canadian National Railways, from the Bonaventure Terminus westward to such point within the city as may be considered advisable;

"(b) For the discussion and consideration of all matters incident to such a scheme of *Grade Separation*; and,

"(c) For the consideration of all matters referred to in the said files, or any of them, including particularly the matters involved in the complaint of the Business Men's Association of Montreal East, submitted by Mr. C. Robitaille, M.P., with respect to crossings in Montreal East from Moreau Street Station as far as Bout de l'Ile, where the Canadian National Railway crosses."

At the hearing of May 10, 1927, the following statement was made by Mr. Butler (Vol. 512, Evidence, p. 8416):—

"I do not think that there can be any doubt—at all events it is the opinion of the Corporation of the City of Montreal—that these level crossings, at all events from Bonaventure west, are *dangerous* and they should disappear, both because they are dangerous and for the inconvenience and delay they cause to the circulation of traffic."

At page 8420 of the same volume, the Deputy Chief Commissioner says:—

"I may repeat, for the benefit of my colleagues, as well as for the benefit of the English-speaking public, that it is very gratifying for the Board to see to-day that not only the citizens and the representatives of the various interests, but as well the public bodies of Montreal, and the representatives of the city, and of the railways, all agree that the time has come when *something should be done for the elimination of the level crossings in the City of Montreal*.

"I have before me a report from our Chief Engineer giving us the details of the various accidents that have taken place at these level crossings. In 1913, 31 persons were killed, and 115 were injured. To

say nothing of the various applications on file complaining of the embarrassment to the traffic, the congestion of the traffic on all these busy thoroughfares when the gates come down to allow the trains to pass. Therefore we see with pleasure that all public bodies, and the railways, and the city, are willing to co-operate with the Board to study the situation and prepare a scheme for the elimination of these level crossings. I think, however, that public opinion should be informed that it is a matter of immense importance, that it cannot be dealt with hurriedly, that all interested parties must of necessity proceed with a great deal of prudence if unnecessary expenditure of large amounts of money is to be avoided, and an efficient scheme worked out which will bring the relief that is desired by all concerned."

It is evident beyond question that the reason the Board insisted that these works be done on the old Grand Trunk, from Bonaventure station to Victoria bridge, was that they were needed for the protection, safety and convenience of the public using the crossings, safety, principally, and to that end, the Board appointed its Chief Engineer to study with the Canadian National Railways' officials the best and most economical means of insuring to the public that protection and convenience.

In accordance with the directions of the Board a general plan was prepared by the Canadian National Railways' engineering staff, in co-operation with our Chief Engineer, as stated in the evidence which I shall quote hereafter, and this plan, which is with the Board, was submitted to the English expert, Mr. F. Palmer, whose report, filed as Exhibit No. 26 at the hearing, states, at paragraph 3:—

"The necessity for rehabilitating the passenger terminal facilities was made the more insistent because of the *requirement of the Board of Railway Commissioners to submit proposals for the abolition of level crossings* in the city of Montreal, of which there are over twenty in the short distance (about 2 miles) between Bonaventure terminus and Turcot, where the railway separates the north side from the south, west of that terminus. There are also nearly fifty level crossings on the line running eastward from Moreau street station, the elimination of which has become more easily possible by a tentative arrangement recently suggested, whereby some measure of joint user of facilities might be entered into by the two railway systems.

"4. The plan prepared by the National Railways, already referred to, *deals very efficiently with the grade crossing difficulty as it exists to-day between Bonaventure and Turcot stations.* The seven principal streets running from north to south are taken across the tracks by over-or under-bridges, while the crossings of the minor streets are closed. As the railway is paralleled on the north by St. James' street and on the south by Notre Dame street, both closely adjacent to the line, the minor road crossings can be so dealt with, without seriously interfering with road traffic between north and south, and the solution offered seems not only practicable but also reasonable.

"5. It may be said at once that the National Railway proposals for a central station to accommodate its own traffic was a bold and brilliant plan for effecting the purpose aimed at."

It should be noted that this report considers the elimination of level crossings and the terminals' scheme as two distinct enterprises and the plans attached to the report confirm this opinion; they show that in the terminal scheme as such no alteration is contemplated on the old Grand Trunk lines from Point St. Charles to St. Henri and from Turcot yards to Bonaventure station; except the grade separations but independently of the terminal works.

On June 14, 1929, the Canadian National Terminals Act 19-20, Geo. V, chapter 12, was assented to. On July 2, 1929, a general plan was approved for the works to be done in accordance with the authority given by this act and the legend of the plan is a full corroboration of the argument that the grade separation was distinct and severable from the terminal facilities' scheme. It reads: "General Plan showing (in red) the location of the *terminal facilities*, *grade separation* and *other works* proposed by the Canadian National Railways in the city of Montreal and vicinity." This legend declares the different kinds of works that are contemplated on this plan and the grade separation is one of them.

Moreover, it is established, that not only the plan contemplated works to be done in connection with terminal facilities, grade separation, but also other works; the grade separation is specifically determined outside of terminal lines and facilities (see copy filed as Exhibit No. 22).

The plans prepared by the railway company's Engineering staff, in conjunction with the Board's Chief Engineer, in so far as they deal with grade separations were made pursuant to the directions given by Board's Judgment of May 27, 1927, as it appears also from Evidence, p. 780:—

"Q. Mr. Brown, you remember the hearing that was held in 1927 by the Board, with respect to the grade separation question in Montreal, do you?—A. Yes.

* * * *

"Mr. RAND: Q. Were you prepared at that time with your project of co-ordination?—A. We were not.

"Q. What did you require?—A. We required some time to study the matter. Subsequent to this particular hearing we were asked by the Board's Chief Engineer had we anything in mind, and could we produce any suggestions as to the *grade separations* in the city of Montreal.

* * * *

"Mr. RAND: Q. Just describe what passed between you.—A. We had several meetings. Mr. Simmons came down and went over the ground. He asked for various data, which was submitted. But before submitting to him the complete plan, it was necessary that we secure the approval of the government and expropriate property.

"Q. At this time, Mr. Brown, what stage had your study of co-ordinating scheme reached?—A. Just what do you mean, in 1927?

"Q. Yes, in 1927, when this hearing was on?—A. Just a general nebulous idea of what would be the proper solution. It had not been committed entirely to plans.

"Q. *Did this hearing accelerate the condition of the larger scheme?*—A. It did.

"Q. How long did your discussions continue with Mr. Simmons as to the grade separation and the larger scheme?—A. They continued into the Fall, as I recall, of 1927, when we filed a plan with the Board what our suggested grade separation was and what the co-ordination would be.

* * * *

"Mr. RAND: Q. Was that with the Board?—A. With Mr. Simmons.

"Q. Did you file any other plans anywhere in the Fall of 1927?—A. The government filed an expropriation plan previous to that.

"Q. Was that afterwards amended?—A. Yes, in some respects.

"Q. At this time was the project as a whole a matter of public knowledge?—A. It was not a matter of public knowledge until after we filed the plan with Mr. Simmons.

* * * *

"Q. Once the matter became public, what developed as to the next step in the public discussion?—A. The principal matter was the calling of an English expert, the late Sir Frederick Palmer, to make a report to the Government.

"Q. Do you remember when Sir Frederick Palmer was called in?—A. I think he was here in 1928.

"Q. Was Mr. Simmons kept informed of the progress of the study and developments?—A. From time to time.

"Q. By whom was he kept informed?—A. I informed him from time to time.

"The CHIEF COMMISSIONER: Q. By letter?—A. In some cases by letter; in some cases he went down and we went over the ground. We also did that later."

This evidence was given by Mr. Brown, then Chief Engineer of the railway company, under whose authority and direction the plans were prepared, and it shows conclusively, corroborated as it is by the general plan, the Palmer report and plans thereto attached, that the question of the protection of the public by grade separation was never abandoned.

I am in agreement with the following argument submitted by Mr. Rand:—

"If you have a section of line that must be separated from the crossing you are bound to do that. Everybody agrees that you must do that. The City of Montreal agrees. We all agree. You say we must do that, and then, at the same time, it occurs to you that you must do something else; that you must, in the interests of your own economy, consolidate certain of the facilities which are disconnected in one sense but connected with it in another sense, and you decide that it would be silly to proceed with that grade separation in and of itself, it would be a wasteful expenditure of money, it would establish a grade separation and nothing else. Then, later we would have the grade separation that is demanded and is admittedly required. Let us effect that by action within itself, and action in relation to the other scheme or the other part of the scheme which is necessary. The mere fact that you bring the two together surely should not in the slightest way affect the validity of the stand that you are primarily dealing with the first. *We were not under any compulsion with the Board to co-ordinate our terminal facilities but we were under the control of the Board and under the coercion of the Board to effect grade separations in this city.*"

And, further, at page 674, he adds:—

"* * * the grade separation was the factor that accelerated the co-ordination of facilities. We were in this position of studying terminal consolidation. That was dictated by the situation. We had to do that in the interest of economy and in the interest of more efficient service to the public. But, if it had not been for the inquiry of 1927, if it had not been for the subject of the grade separation at Bonaventure at that time, and the admitted necessity of doing something then and there quickly, we would not have been forced into the consideration of the larger scheme at that particular time. It would have come ultimately, but it was accelerated by the fact that we were faced with the necessity of proceeding with the grade separation."

This statement is directly corroborated by the general plan and by Mr. Brown's Evidence, p. 778:—

"MR. RAND: Q. Mr. Brown, yesterday afternoon, you told the Board that the grade separations at Mountain and Guy streets were in no way directly or indirectly related to the co-ordination of the terminal

facilities. Now, I ask you the same question with respect to the subways at St. Remi street, Charlevoix street and Hibernia street?—A. They were not related to the terminals scheme itself.

“Q. Then, with respect to the whole area between Bonaventure, Turcot and Point St. Charles, I want to ask you a general question. Was the grade separation proposed between Bonaventure, Turcot and Point St. Charles directly or indirectly, in any manner or to any degree, dictated or required by the scheme of co-ordinating the terminal facilities in this city?—A. No.”

This evidence of Mr. Brown, even if it were not corroborated by all the documents above mentioned would still be conclusive as it is not contradicted by any evidence.

Counsels for the applicants have shown that they were absolutely familiar with the various files, the proceedings before the Board since 1912, the various plans and orders in connection with this case and their failure to adduce any evidence in contradiction of Mr. Brown's statements is an admission of the truth of Mr. Brown's assertions. It would have been easy for them to bring before the Board expert witnesses to contradict Mr. Brown and also to show that this grade separation was directly or indirectly dictated or required by the scheme of co-ordinating the terminal facilities. They have not done so and we must come to the conclusion that they could not do so. This is a question of fact and an uncontradicted witness is absolute evidence, especially when corroborated, as in this case, by circumstantial evidence.

The Gerrard Street Case, 43 C.R.C. 214 does not support the applicant's contentions. The contrary is true.

Carlaw avenue and Gerrard street converged under the same subway and the city of Toronto wished to straighten Gerrard street and build another subway to serve Gerrard street, thereby improving its traffic circulation. To use the words of the judgment, 43 C.R.C., p. 216, the subway at Gerrard street was built “as a matter of street improvement” and not in the interest of the safety and protection of the public at a level crossing. As a matter of fact, *no level crossing was eliminated*.

It appears from the judgment that this betterment of street facilities was undertaken with the consent of the railway which was satisfied to pay \$100,000 for this undertaking and receive a percentage on the whole cost of construction as the builder.

As mentioned in the judgment, the Board only sanctioned the agreement as far as it concerned the building of a new tunnel and approved the plans of the construction of such tunnel.

There was never any consideration by the Board, for there could not be, of public safety, because the pre-existing conditions did not in any way constitute a danger to public safety.

In the present instance, the Board investigated the conditions, even made an order in 1912 for the elimination of these level crossings. Moreover, in 1927, the Board emphatically declared that these level crossings ought to be eliminated for public safety.

If there is a problem that has been studied by the Board this is one, and we must remember that the Board, in 1927, acted “*proprio motu*” when it called the hearing of May 27, 1927, with a view to finding ways of protecting the public by the elimination of level crossings.

The grade separations were built mainly for the protection of the public; the railway made application but in obedience to previous directions of the Board.

The distinction made by the Assistant Chief Commissioner in the Gerrard Street case between that case and the Toronto Railway Co. vs. Toronto and C.P.R., 20 C.R.C., p. 280, substantiates the dissimilarity between this case and the Gerrard Street case and, at the same time, declares that

“ . . . sometimes it is necessary to make a very close scrutiny of the entire record of the proceedings before the Board of Railway Commissioners at its several meetings in order to determine what the real grounds were on which the order complained of was made. I have made such a scrutiny with the result that no doubt exists in my mind that the controlling ground which moved the Commissioners to make the order in question was the safety and protection of the public and that the separation of the grades at Avenue road was ordered mainly if not entirely for that reason, and not with any idea of municipal improvement.”

Can a scrutiny of all that has happened since 1910 up to the time the orders were made by the Board leave any doubt that the controlling ground—not to say the only ground—which moved the Commissioners to make the order or the railway to make its application, was the safety and protection of the public, and that the separation of grades was ordered mainly if not entirely for that reason and not with any idea of municipal improvement or railway facilities.

At p. 286 (20 C.R.C.) His Lordship, Judge Davies, is quoted as saying:—

“ On the whole, I repeat, the only conclusion I could draw from a careful reading of the whole record is that the paramount consideration which weighed with the Board and moved it to make the order was the ‘ protection, safety and convenience of the public.’ ”

In the Gerrard Street case, it was agreed by all concerned that the construction involved was meant as a betterment of street facilities.

I shall add: the fact that the order did not mention that it was issued to insure public safety, is immaterial. I quote from the same judgment, 20 C.R.C., p. 305:—

“ When apprised that the Toronto R. Co. intended to question the jurisdiction of the Railway Board to order it to bear a portion of the cost of the works at the Avenue Road crossing, the Assistant Chief Commissioner thought it proper to supplement a statement made when pronouncing that order, so that ‘ the reasons on which (his) judgment rested in regard to the division of cost . . . should be clearly set out.’ His purpose apparently was to put it beyond doubt that the Board had been actuated by the considerations of public protection and safety. *That was clearly unnecessary in view of the history of the proceedings which led up to the order being made for separation of grades and approving of the subway scheme and plans, and of passages in them in which the dangerous character of the crossing at Avenue road had been emphasized.*”

The grade separation works in the area between Bonaventure Station, Turcot, St. Henri and Point St. Charles were built for the safety, protection of the public, and this public, represented by the corporation of the city of Montreal, must be declared a contributor.

The expenses incurred by the applicants in connection with such works ought to be considered together with the apportionment of costs against the city of Montreal.

In such an instance, there is no legal lien between the railway and the public utilities but a legal lien exists between the city and the railway.

The disbursements made by the railway and the applicants were incurred for the benefit, advantage, of the public, in this instance the city of Montreal, and the railway and the utilities must deal with the city.

It would be different if these works had been done for the betterment of railway facilities; then the railway would be the debtor, but, actually, the city being the beneficiary must be considered the debtor of both.

To what extent? This will be the duty of the Board to decide when the city of Montreal is apportioned its share of the cost of these works.

The following quotation from *Bell Telephone Co. et al. vs. C.N.R.*, 39 C.R.C., p. 201, has its application *mutatis mutandis*:—

“It may be said generally that an order such as we are now discussing is not made ‘for the purpose of the railway proper.’ The fact that the railway comes across a highway is no doubt the occasion for the order, but the reason or the purpose of the order is the protection or convenience of the public. All the railway needs is to cross the highway. But there are cases where this may not be done without danger or obstruction. Hence the order to carry the highway over or under the railway. As a result, the utilities are not to be removed in order to allow the railway to pass. They must be removed because, for motives of public safety and convenience, the highways are to be lowered or carried above. It is idle to say that lowering a highway will not make it part of the railway undertaking, and neither will its being carried over the railway. This very question is dealt with by the Viscount Dunedin delivering the judgment of the Judicial Committee in *Boland v. C.N.R.* (1926), 4 D.L.R. 193, at p. 201, 32 C.R.C. 128, at p. 137. The noble lord puts the question: ‘Is the subway part of the undertaking of the railway?’ And the answer is:—

‘Their Lordships consider that it is not. The expression “subway” had been used, and it is convenient, but, in fact, what has been done is merely a lowering of the road and the construction of a new railway bridge. Their Lordships do not doubt that the lowered road still remains, as it was, part of the road belonging to the municipality. They might put sewers under it or gas pipes along it, and could not be restrained by the railway authorities—assuming, of course, that these things so done did not in any way interfere with the position of the railway proper.’”

This being the case, any claim of the applicants must be directed against the owner of the lowered road or overhead bridge which remains part of the road belonging to the municipality.

Subsection 2 of section 39 says:—

“39. (2) The Board may, except as otherwise expressly provided, order by whom, in what proportion and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance thereof, or of otherwise complying with such order, shall be paid.”

The removal of utilities as directed was obviously part of the works and could competently be ordered by the Board.

Moreover, it is a fact that the removal could be done more advantageously by the companies owning and operating the utilities, but because the companies were ordered to remove their utilities under subsection 1 of section 39, it does not follow that the Board is bound under subsection 2 of the same section to apportion the costs of removal against them, as stated at page 198 of the judgment above quoted, viz:—

“But it may not be out of the way to point out that s. 39 gives ample scope to the Board for making for provisions as to time, terms, conditions and ‘as to the payment of compensation or otherwise,’ as

may be found necessary to meet all situations, and for clothing the orders it makes under it with all the guarantees of fairness. In our view, the enactment as framed allows for directions that advances in money be made on account, by all or some of the parties interested or affected, towards the cost of construction ordered executed by one or more of them (see 51 D.L.R., at p. 56, 25 C.R.C., 322), or that compensation, if any, be previously paid. We should not assume that in these, or in any other instances, the Board will make use of its powers in a way that would be unreasonable."

The grade separation was a municipal enterprise, undertaken by the railway with the sanction and under the direction of the Board, the authority designated by the Railway Act to sanction and give direction to any party "affected" or interested.

According to the judgment rendered in the case of C.N.R. vs. Bell Telephone Co. of Canada *et al*, 40 C.R.C., p. 29, the application ought to be dismissed and the utilities ordered to bear the expense incurred in the removal of their plants arising out of the grade separation works.

I disagree, however, with this conclusion for the reasons set out in the judgment itself, namely: That the circumstances of this case do not justify the "breaking away from the uniform rule that where private property is required for public purposes it must be paid for" (at p. 41), and that "The universal principle of law is that where private property is taken or injuriously affected, in the carrying out of works authorized by Parliament, the owner must be compensated. It would not be consistent with common justice to hold that the party so injured should not be entitled to compensation." (At p. 39.)

But, the city of Montreal, if not the real debtor of the applicants, as the owner of the enterprise is, at least, an "interested" party and, as such, can and ought to be assessed a certain quota of the whole cost.

The reimbursements to be made to the applicants are either a part of the whole cost—as admitted, at least implicitly, by the majority judgment—or a part of the quota with which the city is liable to be assessed.

It follows that the city of Montreal would be affected by a judgment that would decide on the propriety and amount of the applicants' claims.

The city of Montreal was not a party to these applications and I submit that the Board, using the discretionary powers granted it by section 46 of the Railway Act, should suspend judgment on these applications until an opportunity has been given to the city of Montreal to contest the validity and amount of the applicants' claims either with regard to the whole cost, a portion of which it is liable to contribute or with regard to its own quota.

The cost of the abandonment or removal of the applicants' utilities at Canning, Chatham, Seigneurs, Martin, Richmond, Lusignan, Versailles and Aqueduct streets ought not to be charged against the railway or the city.

Such utilities or facilities did not cross the original tracks of the railway company but terminated on the streets at the point where they reached the railway right of way.

They had been rendered useless by the fact that the railway had become owner of the properties on both sides of each street; the houses had been vacated or demolished and the utilities had ceased to have any clients left to be served by these utilities; their right to be along, over or under the streets is subordinated to present or future service; when this possibility disappears, they become a nuisance.

As to the other claims concerning works done at Ottawa and other streets ordered to permit the railway to build part of its terminal facilities, including grade separation, or for the sole betterment of its operations, I would grant the application, but the final decision as to whether there should be the reservation mentioned in the answer of the railway, and as to the amount to be paid, would be finally determined after a report of the Board's Engineer as to the nature and purpose of the work, and as to the real amount of expenses incurred by the applicants; and if the reservation is recommended, after the city of Montreal has been heard.

OTTAWA, May 18, 1937.

ORDER No. 54321

In the matter of the applications of the Montreal Light, Heat & Power Consolidated and the Bell Telephone Company of Canada for an Order directing the Canadian National Railways to reimburse the said Companies for all costs incurred in altering, reconstructing, moving, or abandoning their respective plants on certain streets in the City of Montreal in connection with the Montreal Terminals scheme.

File No. 9437.319.46

WEDNESDAY, the 19th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner (Dis.)*

J. A. STONEMAN, *Commissioner.*

Upon hearing the applications at the sittings of the Board held at Montreal, April 7 and 8, 1937, in the presence of Counsel for the Montreal Light, Heat and Power Consolidated, the Bell Telephone Company of Canada, and the Canadian National Railways, and what was alleged,—

It is ordered:

1. That the Canadian National Railways reimburse the Montreal Light, Heat and Power Consolidated and the Bell Telephone Company of Canada for their reasonable and necessary expenditure incurred and paid in the removal and replacement of their facilities at St. Remi, Charlevoix, Hibernia, Mountain, Guy, St. Maurice, Ottawa, Bridge, William, St. Paul, Wellington, St. James, Notre Dame, Magdalen, Bourgeois, Canning, Chatham, Seigneurs, St. Martin, Richmond, Lusignan, Versailles, and Aqueduct streets, in the city of Montreal, province of Quebec, by reason of the construction of the works authorized under the orders of the Board numbered 44425, dated March 10, 1930; 44557, 44558, and 44559, dated respectively April 5, 1930; 45335 and 45336, dated respectively September 9, 1930; 45354, dated September 10, 1930; 45371, 45372, 45373, 45374, and 45375, dated respectively September 9, 1930; 45409, dated September 16, 1930; 45424 and 45426, dated respectively September 9, 1930; and 45551, dated October 7, 1930.

2. That the Montreal Light, Heat and Power Consolidated and the Bell Telephone Company of Canada submit to the Board a detailed statement of their expenditures, to be examined and certified by the Chief Engineer of the Board. The Chief Engineer shall inquire in respect to each of the claims of the applicants, to ascertain whether the work performed by them was necessary work and whether the amounts charged therefor are fair and reasonable. The Montreal Light, Heat and Power Consolidated and the Bell Telephone Company of Canada shall furnish accounts and vouchers as may be required.

3. That inquiry shall also be made by the Chief Engineer of the Board as to whether either of the applicants has derived any benefit and, if so, to what extent, from construction of new plant and equipment to replace plant and equipment formerly in use. The inquiry shall include all questions which may arise where streets have been closed, grades altered, railway right of way enlarged, lines of railway increased, and cases where properties have been purchased by the railway company and building and structures thereon demolished. When this inquiry has been concluded and report made thereon by the Engineers appointed by the Board, the Board will finally determine the amounts to be paid the respective applicants in respect of their claims.

4. That the Canadian National Railways pay interest to the said Montreal Light, Heat and Power Consolidated and the Bell Telephone Company of Canada upon the various amounts expended by them from the date of such payments until the date of repayment, at the rate of three and one-half per cent per annum.

5. That the moneys disbursed by the Canadian National Railways pursuant to this order shall be and be deemed to be part of the cost incurred by the company in constructing the works authorized, to be apportioned as hereinafter provided.

6. That the question of the apportionment of the cost of constructing and maintaining the said works among the parties interested or affected thereby, other than the Montreal Light, Heat and Power Consolidated, the Bell Telephone Company of Canada, the Electrical Commission of the city of Montreal, the Montreal Tramways Commission, the Dominion Electric Protection Company, the Pintsch Compressing Company, and the Montreal Tramways Company, who shall not be called upon to make any contribution thereto, be, and the same is hereby, reserved for further consideration by the Board.

7. That this order is made without prejudice to any rights which the Canadian National Railways may have against the city of Montreal, or which the city of Montreal may have against the Canadian National Railways, in respect of the payments to be made under the terms of this order, or in respect of any other questions involved in the said applications.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54311

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 15th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1044, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1044, approved herein, are as follows:—

Item	From	Cents per 100 pounds
1	Halifax, N.S.	43
	Yarmouth, N.S.	43½
2	The Halifax rates covered by previous order or orders will apply.	
3	To	
	Montreal, Que.	47½
	Toronto, Ont.	51½
4	From	
	Halifax, N.S. Toronto, Ont.	33
	Yarmouth, N.S. Toronto, Ont.	34
	Montreal, Que.	33
5	To	
	Guelph, Ont.	45½
	Simcoe, Ont.	45
	Toronto, Ont.	40
6		41½

One and one-half cents per one hundred pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54312

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 15th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 3940A of Supplement No. 4 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 3940A of Supplement No. 4 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

Item	To	Cents per 100 pounds
3940A		30,000 pounds
	Grand Falls, N.B.	29
	Perth Jet., N.B.	22½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54313

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 15th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item No. 360A of Supplement No. 13 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 360A of Supplement No. 13 to Tariff C.R.C. No. 1006, approved herein, are as follows:—

Item	Cents per 100 pounds	
360A..	C.L.	18½
	L.C.I.	30

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54314

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 17th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 24 to Tariff C.R.C. No. E-1745

Supplement 31 to Tariff C.R.C. No. E-1906

Supplement 5 to Tariff C.R.C. No. E-2526

Supplement 8 to Tariff C.R.C. No. E-2564

Tariff C.R.C. No. E-2605

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54318

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 18th day of May, 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1045, filed by the Dominion Atlantic Railway Company, under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1045, approved herein, are as follows:—

To	Cents per 100 pounds
Burtt's Corner, N.B.	24
Fredericton, N.B.	20½
Grand Falls, N.B.	22½
Hartland, N.B.	26
Harvey, N.B.	25
Prince William, N.B.	26
Woodstock, N.B.	22½

One and one-half cents per one hundred pounds to be deducted account of water haul.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54319

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 18th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1032, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1032, approved herein, are as follows:—

Section 1 Commodities		Cents per 100 Pounds				
		A	B	C	D	E
Groceries, 1st and 2nd class..		19	21½	25	27½	32½
Groceries, 3rd and 4th class..		16½	19	22½	25	30
Canned goods..	}	12½	15	19	21½	26½
Dried fruit..						
		Cents per Barrel				
		A	B	C	D	E
Molasses..		70	81½	99	110	132½
		Cents per Tierce				
		A	B	C	D	E
Molasses..		109	125	150	166½	199
		Cents per Puncheon				
		A	B	C	D	E
Molasses..		217½	250	299	331½	396½
		Cents per 100 Pounds				
		A	B	C	D	E
Salt..	}	12½	15	19	21½	26½
Soap..						
Sugar..	}	19	21½	25	27½	32½
Hardware, 1st class or over..		16½	19	22½	25	30
Hardware, 2nd class or lower..	}	12½	15	19	21½	26½
Iron and steel..						
Iron, sheet..	}	22½	25	29	31½	36½
Paper, roofing or sheeting..		12½	15	19	21½	26½
Roofing, composition or prepared..	}	12½	15	19	21½	26½
Shingles, asbestos, asphalt, or slate..						
Wallboard..	}	12½	15	19	21½	26½
Cement..						
Lime..	}	22½	25	29	31½	36½
Paint..		12½	15	19	21½	26½
Plasterboard..	}	12½	15	19	21½	26½
Putty..						
Varnish..	}	22½	25	29	31½	36½
Fruit, fresh..		12½	15	19	21½	26½
Grain products..	}	12½	15	19	21½	26½
Meal, fish..						
Oil, emulsion..	}	12½	15	19	21½	26½
Petroleum products..						
Vegetables..	}	12½	15	19	21½	26½
Beans..						
Onions..	}	12½	15	19	21½	26½
Section 2..	12

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54324

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 20th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1034, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act,

be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1034, approved herein, are as follows:—

Commodities	CENTS PER 100 POUNDS TO																		
	Brazil Lake, N.S.	Hectanooga, N.S.	Meteghan, N.S.	Blackadar s, N.S.	Sadhierville, N.S.	Little Brook, N.S.	Church Point, N.S.	Weymouth, N.S.	Plympton, N.S.	North Range, N.S.	Bloomfield, N.S.	Digby, N.S.	Bear River, N.S.	Clementsport, N.S.	Annapolis Royal, N.S.	Bridgetown, N.S.	Middleton, N.S.		
Groceries—																			
1st and 2nd class.. . . .	11	12	15	15	16½	16½	19	20	20	22	23½	24	26	26½	28½	29	30		
3rd and 4th class.. . . .	9	10	12½	12½	14	14	17½	17½	18½	19½	21½	21	22	23½	24	25½	26½		
Canned goods.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	22	23½	24	25½	26½		
Dried fruit.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	22	23½	24	25½	26½		
CENTS PER BARREL																			
Molasses.. . . .	38½	44	56½	56½	62½	62½	74½	79	82½	87	96½	94	97	106½					
CENTS PER TIERCE																			
Molasses.. . . .	50½	58½	75	75	82½	82½	99½	105	109½	116	127½	124½	129	141					
CENTS PER PUNCHEON																			
Molasses.. . . .	112½	120½	162½	162½	179	176	213½	227½	231	255½	273½	259½	278½	303					
CENTS PER 100 POUNDS																			
Salt, soap and sugar.. . . .	9	10	12½	12½	14	14	17½	17½	18½	19½	21½	21	22	23½					
Hardware—																			
1st class or higher.. . . .	11	11½	15	15	16½	16½	19	20	20	21½	23½	22½	24	26					
2nd class or lower.. . . .	9	10	12½	12½	14	14	17½	17½	18½	19½	21½	21	22	23½					
Iron and steel, etc..	9	10	12½	12½	14	14	17½	17½	18½	19½	21½	21	22	23½					
Iron, sheet.. . . .	9	10	12½	12½	14	14	17½	17	17½	19½	21	20	22	23½					
Paper, roofing or sheathing.. . . .															21	20	22	23	
Roofing, composition or pre- pared.. . . .																			
Shingles, asbestos.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	21½	23½					
Asphalt or slate.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	20	22	23½				
Wallboard.. . . .																21	20	22	23
Cement.. . . .																			
Lime.. . . .	9	10	12	12½	14	14	17½	17	17½	19½	21	20	22	23					
Paint.. . . .	9½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	21½	23½					
Plasterboard.. . . .	9	10	12	12½	14	14	17½	17	17½	19½	21	20	22	23					
Putty.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	20	22	23½				
Varnish.. . . .																21	20	22	23
Fruit, fresh.. . . .																			
Grain products.. . . .	9	10	12	12½	14	14	17½	17	17½	19½	21	20	22	23					
Vegetables.. . . .	21½	22½	26½	29	31½	31½	34	36½	36½	38	41½	41½	42½	44½					
Beans.. . . .	9	10	12	12½	14	14	17½	17	17½	19½	21	20	22	23					
Onions.. . . .	8½	9½	12½	12½	14	14	16½	17½	18½	19½	21½	21	21½	23½					

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54323

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

FRIDAY, the 21st day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., Chief Commissioner.

G. A. STONE, Commissioner.

The Board orders:

1. That the tolls published in items Nos. 6, 7, and 8 of Supplement No. 47 to Tariff C.R.C. No. E-1247, filed by the Canadian National Railways under

section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 6, 7, and 8 of Supplement No. 47 to Tariff C.R.C. No. E-1247, approved herein, are as follows:—

Item 6	Cents per 100 pounds	
	Billed	Normal
Annapolis, N.S.	9	11 $\frac{1}{2}$
Auburn, N.S.	8	9 $\frac{1}{2}$
Avonport, N.S.	6 $\frac{1}{2}$	7 $\frac{1}{2}$
Aylesford, N.S.	8	9 $\frac{1}{2}$
Bear River, N.S.	10	12 $\frac{1}{2}$
Beaver Bank, N.S.	7 $\frac{1}{2}$	9
Berwick, N.S.	7 $\frac{1}{2}$	9 $\frac{1}{2}$
Billtown, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$
Brazil Lake, N.S.	11 $\frac{1}{4}$	14
Brickton, N.S.	8	9 $\frac{3}{4}$
Bridgetown, N.S.	9	11 $\frac{1}{2}$
Brooklyn, N.S.	5 $\frac{3}{4}$	7
Cambridge, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$
Centreville, N.S.	7 $\frac{1}{4}$	9
Church Point, N.S.	10 $\frac{1}{2}$	12 $\frac{3}{4}$
Clarksville, N.S.	4 $\frac{1}{2}$	5 $\frac{1}{2}$
Clementsport, N.S.	9	11 $\frac{1}{2}$
Coldbrook, N.S.	7 $\frac{1}{2}$	9
Item 7		
Deep Brook, N.S.	10	12 $\frac{1}{2}$
Digby, N.S.	10	12 $\frac{1}{2}$
Ellerhouse, N.S.	6 $\frac{1}{2}$	7 $\frac{1}{2}$
Falmouth, N.S.	5 $\frac{3}{4}$	7
Grand Pre, N.S.	6 $\frac{3}{4}$	8 $\frac{1}{2}$
Hantsport, N.S.	6 $\frac{1}{2}$	7 $\frac{1}{2}$
Hebron, N.S.	11 $\frac{1}{2}$	14
Horton Landing, N.S.	6 $\frac{3}{4}$	8 $\frac{1}{2}$
Kennetcook, N.S.	4 $\frac{1}{2}$	5 $\frac{1}{2}$
Kentville, N.S.	7 $\frac{1}{4}$	9
Kingsport, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$
Kingston, N.S.	8	9 $\frac{3}{4}$
Lakeville, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$
Lawrencetown, N.S.	8	9
Meteghan, N.S.	10 $\frac{1}{2}$	12 $\frac{3}{4}$
Mosherville, N.S.	5	6 $\frac{1}{2}$
Mount Uniacke, N.S.	6 $\frac{3}{4}$	8 $\frac{1}{2}$
Newport, N.S.	6 $\frac{1}{2}$	7 $\frac{1}{2}$
Item 8		
North Range, N.S.	10	12 $\frac{1}{2}$
Paradise, N.S.	8	9 $\frac{1}{2}$
Plympton, N.S.	10 $\frac{1}{2}$	12 $\frac{1}{2}$
Port Williams, N.S.	6 $\frac{3}{4}$	8 $\frac{1}{2}$
Round Hill, N.S.	9	11 $\frac{1}{2}$
Scotch Village, N.S.	5	6 $\frac{1}{2}$
Sheffield Mills, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$
Somerset, N.S.	8	9 $\frac{1}{2}$
South Maitland, N.S.	3 $\frac{1}{2}$	4 $\frac{1}{2}$
Tupperville, N.S.	9	11 $\frac{1}{2}$
Waterville, N.S.	7 $\frac{1}{2}$	9 $\frac{1}{2}$
Weston, N.S.	8	9 $\frac{3}{4}$
Weymouth, N.S.	10 $\frac{1}{2}$	12 $\frac{1}{2}$
Wilmot, N.S.	8	9 $\frac{1}{2}$
Windsor, N.S.	5 $\frac{3}{4}$	7
Wolfville, N.S.	6 $\frac{3}{4}$	8 $\frac{1}{2}$
Woodville, N.S.	7 $\frac{3}{4}$	9 $\frac{1}{2}$

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54330

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 25th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 38 to Tariff C.R.C. No. E-1258.

Supplement No. 45 to Tariff C.R.C. No. E-1829.

Supplement No. 31 to Tariff C.R.C. No. E-1974.

Supplement No. 26 to Tariff C.R.C. No. E-2047.

Supplement No. 9 to Tariff C.R.C. No. E-2564.

Tariff C.R.C. No. E-2608.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54332

In the matter of the Order of the Board No. 38777, dated February 21, 1927, granting leave to the Bell Telephone Company of Canada to file individual exchange tariffs, and supplements to its general exchange tariff, to give effect to the rates and charges prescribed and authorized by and in accordance with the judgment of the Board dated February 21, 1927; and in the matter of proposed change in the exchange charges at St. Jerome, Quebec.

Case No. 955.71

TUESDAY, the 25th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That Tariff C.R.C. No. 6406 (2nd Revised Sheet 1), effective June 21, 1937, covering exchange rates of the Bell Telephone Company of Canada at St. Jerome, Quebec, be, and it is hereby, approved; and that Part XXI of the Board's said judgment dated February 21, 1927, be amended by transferring St. Jerome, Quebec, from Group IX to Group VIII.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54333

In the matter of the application of the Cornwall-Northern New York International Bridge Corporation, under Section 323 of the Railway Act, for approval of By-law dated May 14, 1937, authorizing the President, Vice-President, Secretary or Treasurer of the Corporation to prepare and issue tariffs of the tolls to be charged in respect of the use for pedestrian, vehicular, or other traffic on, over, or across the bridge owned or operated by the Corporation, and to submit the same to and file the same with the Board.

File No. 38514.1

TUESDAY, the 25th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer,—

It is ordered: That the said By-law of the Cornwall-Northern New York International Bridge Corporation, on file with the Board under file No. 38514.1, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54335

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 26th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the toll published in item No. 4 of Supplement No. 12 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 4 of Supplement No. 12 to Tariff C.R.C. No. 1006, approved herein, is 31 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54336

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 26th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 111A of Supplement No. 16 to Tariff C.R.C. No. 907, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 111A of Supplement No. 16 to Tariff C.R.C. No. 907, approved herein, is 3 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54337

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

WEDNESDAY, the 26th day of May, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 758, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 758, approved herein, are as follows:—

From	Cents per 100 pounds
Edmundston, N.B.	37
Ste. Rose, Que.	32½
Notre Dame du Lac, Que.	29
Cabano, Que.	26½
St. Louis du Ha Ha, Que.	25
St. Honore, Que.	22½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54338

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

WEDNESDAY, the 26th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 757, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 757, approved herein, are as follows:—

Miles	Cents per 100 pounds
10	6½
20	8
50	12½
70	15
90	19
115	20

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54340

In the matter of the application of the Canadian Pacific Railway Company and the Canadian Pacific Express Company with regard to alleged unreasonableness and discrimination with respect to the provisions of Supplement No. 12 to Tariff C.R.C. No. E.T.-1111, issued by the Express Traffic Association, which has the effect of cancellation of long-standing charges for switching of carload express traffic, arriving at Montreal via the Canadian Pacific Express Company, by the Canadian National Railways Express Department to the Montreal Fruit and Produce Terminal at Montreal.

File No. 4214.601

THURSDAY, the 27th day of May, A.D., 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

Upon reading what has been filed in support of the application, and the reports of counsel and the Chief Traffic Officer of the Board,—

It is ordered: That Supplement No. 12 to Special Tariff No. 135, C.R.C. No. E.T.-1111, of terminal and switching charges, issued by S. H. Bullett, Chairman of the Express Traffic Association, Montreal, be, and it is hereby, suspended as from May 14, 1937, pending hearing and further order by the Board.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54345

In the matter of the application of the Western Power Company of Canada, Limited, under section 323 of the Railway Act, for approval of by-law passed May 17, 1937, authorizing the General Freight and Passenger Agent of the Company, whom failing, the Transportation Manager of the Company, to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Company, and to submit the same to and file the same with the Board.

File No. 20754

THURSDAY, the 27th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Western Power Company of Canada, Limited, on file with the Board under file No. 20754, be, and it is hereby, approved.

2. That orders numbered 17750 and 31653, dated respectively October 14, 1912, and October 15, 1921, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54346

In the matter of the application of the Midland Railway Company of Manitoba, under section 323 of the Railway Act, for approval of by-law passed May 14, 1937, authorizing the General Superintendent of the Company to prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the Company, and to submit the same to and file the same with the Board.

File No. 19552

THURSDAY, the 27th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Midland Railway Company of Manitoba, on file with the Board under file No. 19552, be, and it is hereby, approved.

2. That Order No. 16302, dated April 13, 1912, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54347

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 27th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1047, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1047, approved herein, are as follows:—

To	Cents per 100 pounds.
Burt's Corner, N.B.	24
Clanfield, N.B.	23½
Fredericton, N.B.	20½
Grand Falls, N.B.	22½
Hartland, N.B.	26
Harvey, N.B.	25
Nashwaaksis, N.B.	23½
Prince William, N.B.	26
Woodstock, N.B.	22½
Zealand, N.B.	24½

One and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54349

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 29th day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 170F of Supplement No. 11 to Tariff C.R.C. No. E-4645, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 170F of Supplement No. 11 to Tariff C.R.C. No. E-4645 to Kingston, Ont., approved herein, is 32½ cents per 100 pounds; one and one-half cents per 100 pounds to be deducted account of water haul.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54350

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 29th day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items Nos. 60B and 116A of Supplement No. 12 to Tariff C.R.C. No. E-4369, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 60B and 116A of Supplement No. 12 to Tariff C.R.C. No. E-4369, approved herein, are as follows:—

Item	Cents per 100 pounds.
60B..	The normal tolls are those shown in item No. 269 of Supplement No. 21 to G. C. Ransom's Tariff C.R.C. No. 111.
One and one-half cents per 100 pounds to be deducted account of water haul.	
116A..	1 69

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54351

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 29th day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 110.I of Supplement No. 14 to Tariff C.R.C. No. E-4316, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 110.I of Supplement No. 14 to Tariff C.R.C. No. E-4316, from St. Leonard, New Brunswick, approved herein, is 23½ cents per 100 pounds.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54352

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.15

SATURDAY, the 29th day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 10 to Tariff C.R.C. No. 194, filed by the Fredericton & Grand Lake Coal and Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 10 to Tariff C.R.C. No. 194, approved herein, are as follows:—

Index	To	Cents per ton of 2,000 pounds.
25	Chipman, N.B.	(2) 35
		(4) 37½
5360	Staynerville, Que.	3 30
5385	Fassett, Que.	3 30
5430	Gatineau, Que.	3 50

For explanation of reference marks see page No. 3 of Tariff.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54353

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 29th day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 141A of Supplement No. 23 to Tariff C.R.C. No. E-4368, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 141A of Supplement No. 23 to Tariff C.R.C. No. E-4368, approved herein, is \$1.75 per 100 pounds.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54354

In the matter of the application of the Temiscouata Railway Company, under section 323 of the Railway Act, for approval of by-law passed May 20, 1937, authorizing the General Manager of the Company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Company, and to submit the same to and file the same with the Board.

Case No. 3055

THURSDAY, the 27th day of May, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Temiscouata Railway Company, on file with the Board under Case No. 3055, be, and it is hereby, approved.

2. That Orders 4502, 4551, 8584, 27182, and 34569, dated respectively March 24, 1908, March 31, 1908, November 5, 1909, May 6, 1918, and December 14, 1923, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 54244. April 30—Authorizing F. W. Thompson, Agent, on behalf of the C.N.R., the C.P.R. and the Northern Alberta Railways, to issue and file on one day's notice a supplement to Canadian Freight Association tariff C.R.C. No. 320, amending Note 1 on page 3 thereof, to restrict the application of reshipping rates published thereon on barley sprouts and bran to reshipments made by the Provincial Department of Agriculture.
- 54245. April 29—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Company under sec. 9.
- 54246. April 28—Authorizing the Municipality of South Onslow, Quebec, to construct a highway crossing over the C.P.R.
- 54247. April 30—Authorizing the C.N.R. to remove the spur line of railway constructed to property of Carroll Bros. at Sherkestone, Ontario.
- 54248. April 30—Requiring the C.N.R. to improve the sight lines at the third crossing west of station at Liverpool, N.S.
- 54249. May 1—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54250. May 3—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff, filed by the C.P.R. under sec. 9.
- 54251. May 1—Approving Traffic Agreement between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the Township of Wellesley.
- 54252. May 3—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54253. May 4—Declaring the C.N.R. crossing east of Charlesbourg West station, Quebec, protected to Board's satisfaction.
- 54254. May 3—Declaring the C.N.R. crossing east of Shakespeare Station, Ontario, protected to the Board's satisfaction.
- 54255. May 4—Approving proposed station building to be erected at Armdale, N.S., by the C.N.R.
- 54256. May 5—Amending slightly Order No. 54166 dated April 12, 1937, authorizing Bell Telephone Company to erect its lines, etc., at certain locations in City of Ottawa.
- 54257. May 4—Authorizing the Dept. of Highways & Transportation for Province of Saskatchewan to construct a highway crossing over the station grounds of the C.N.R. at Carmel, Sask.
- 54258. May 4—Declaring the C.P.R. crossing just west of Copper Cliff station, Ont., protected to Board's satisfaction.

- 54259. May 4—Relieving the Lake Erie & Northern Railway Co., from maintaining cattle guards at certain crossings in Township of Townsend, Ont.
- 54260. May 4—Relieving the C.P.R. from maintaining cattle guards at certain crossings in Township of South Sherbrooke, Que.
- 54261. May 4—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Montreal and Ottawa subdivision.
- 54262. May 4—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Waltham, Maniwaki, Prescott, and Hamilton-Goderich subdivisions.
- 54263. May 4—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Waltham, Maniwaki, Prescott, and Hamilton-Goderich subdivisions.
- 54264. May 4—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Waltham, Maniwaki, Prescott, and Hamilton-Goderich subdivisions.
- 54265. May 4—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Waltham, Maniwaki, Prescott, and Hamilton-Goderich subdivisions.
- 54266. May 5—Declaring C.P.R. crossing first west of Sutherland station, Saskatchewan, protected to Board's satisfaction.
- 54267. May 5—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Sussex street, Carleton Place, and Galt subdivisions.
- 54268. May 5—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Sussex street, Carleton Place, and Galt subdivisions.
- 54269. May 5—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Sussex street, Carleton Place, and Galt subdivisions.
- 54270. May 7—Declaring the C.N.R. crossing at Downer's Corners, Ont., protected to the Board's satisfaction.
- 54271. May 8—Extending until July 1st, 1937, the time for re-establishing the train service between International Boundary and Princeton, B.C. by the Vancouver, Victoria & Eastern Railway and Navigation Company, subject to certain conditions.
- 54272. May 7—Declaring the C.P.R. crossing 1-29 miles west of Beachville station, Ont., protected to Board's satisfaction.
- 54273. May 10—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under sec. 9.
- 54274. May 7—Approving proposed rearrangement of gate tower and gate at Heriot St. crossing, C.N.R. Drummondville, Que.
- 54275. May 7—Authorizing the C.P.R. to construct an extension of branch line to serve Province of Alberta at South Edmonton, Alta.
- 54276. May 10—Requiring the City of Vernon, B.C. to erect "STOP" signs at Bernard Avenue and Schubert St., Vernon, B.C.
- 54277. May 10—Authorizing the Dept. of Highways for Ontario to construct overhead crossing of the C.N.R. in Township of Commanda.
- 54278. May 11—Extending the time within which bell and wigwag may be installed at first highway crossing east of Falmouth, N.S.
- 54279. May 11—Declaring the first public crossing just west of Vacluse station, Que., protected to Board's satisfaction.
- 54280. May 11—Granting leave to the C.N.R. to remove station building at Yonge's Mills, Ont.
- 54281. May 11—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54282. May 11—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplements to tariffs filed by the C.P.R. under sec. 9.
- 54283. May 11—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplements to tariffs filed by the C.P.R. under sec. 9.
- 54284. May 11—Extending the time within which the Dominion Atlantic Railway Co. may install bells and wigwags at crossings near Falmouth, N.S., at Mount Denison station, N.S., and near Weymouth, N.S.
- 54285. May 11—Extending the time within which the Dominion Atlantic Railway Co. may install bells and wigwags at crossings near Falmouth, N.S., at Mount Denison station, N.S., and near Weymouth, N.S.
- 54286. May 11—Approving clearances of platform to be located at mileage 4-90 Park Avenue sub., C.P.R., subject to certain conditions.
- 54287. May 11—Approving clearances of platform to be located at mileage 4-90 Park Avenue sub., C.P.R., subject to certain conditions.
- 54288. May 11—Approving By-law No. 3 of the International Bridge & Terminal Co., re issuing of freight and passenger tariffs, etc.
- 54289. May 13—Authorizing the City of Toronto to remove old and construct new bridges where the C.N.R. and C.P.R. cross Dundas street.
- 54290. May 13—Declaring the C.P.R. highway crossing at mileage 95-11 Lacombe subdivision protected to satisfaction of the Board.
- 54291. May 13—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54292. May 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.P.R. under sec. 9.
- 54293. May 13—Authorizing the C.N.R. to construct a subway at Union street, Devon, N.B.
- 54294. May 14—Extending the time within which bell and wigwag may be installed by the C.N.R. at first crossing of trunk road west of James River Station, N.S.
- 54295. May 13—Amending Order No. 53989 dated February 13, 1937, authorizing the Municipality of City of Levis to remove obstruction to view caused by a point of rock at the crossing of St. Lawrence St. by the C.N.R.
- 54296. May 14—Authorizing the Vancouver, Victoria & Eastern Rly. & Nav. Co. to use bridge over the Nicomekl river, near Crescent, B.C.
- 54297. May 14—Extending time within which bells and wigwags may be installed by the C.N.R. at certain crossings, one near James River Station, N.S., and one at Ritchie Lake, N.B.
- 54298. May 14—Extending time within which bells and wigwags may be installed by the C.N.R. at certain crossings, one near James River Station, N.S., and one at Ritchie Lake, N.B.

- 54299. May 14—Approving By-law of the London & Port Stanley Railway Co. authorizing the General Manager to prepare and issue freight and passenger tariffs of tolls to be charged in respect of the railway owned or operated by the London Railway Commission.
- 54300. May 14—Authorizing the C.N.R. to construct a subway at Queen St., Fredericton, N.B.
- 54301. May 14—Authorizing the General Traffic and Transportation Manager or the Assistant General Traffic and Transportation Manager of the Cumberland Railway & Coal Co. to issue freight and passenger tariffs of tolls.
- 54302. May 14—Extending the time within which bells and wigwags may be installed by the C.N.R. at highway crossing at Enfield, N.S.
- 54303. May 14—Declaring the C.N.R. crossing first west of Brunkild station, Man., protected to Board's satisfaction.
- 54304. May 13—Distributing the cost of subways at Richmond and Wellington streets, London, Ont., to the extent not allocated by Order No. 51618.
- 54305. May 14—Authorizing the Dept. of Highways & Transportation for Saskatchewan to introduce less than standard clearances at the crossing of the C.P.R. near Biggar, Sask., during construction period.
- 54306. May 14—Approving Traffic Agreement between the Bell Telephone Co. and the Maniwaki Power & Telephone Co.
- 54307. May 18—Authorizing the C.N.R. to construct certain trackage across the highway at mileage 10·64 Springhill subdivision, near Debert, N.S.
- 54308. May 14—Authorizing the Dept. of Highways and Transportation for Saskatchewan to introduce less than standard clearances during construction of overhead bridge near Swift Current, Sask., C.P.R.
- 54309. May 17—Authorizing the C.N.R. to construct a bridge over Lemoine Narrows, Province of Quebec.
- 54310. May 14—Authorizing the Dept. of Highways and Transportation for Saskatchewan to introduce less than standard clearances during construction of overhead bridge near Mortlach, Sask., C.P.R.
- 54311. May 15—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54312. May 15—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under sec. 9.
- 54313. May 15—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54314. May 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54315. May 17—Extending the time within which the C.N.R. may construct a spur across Wellington, Ann, and Smith streets, Montreal.
- 54316. May 18—Authorizing the Canadian Collieries (Dunsmuir) Ltd., to construct a coal mine entrance tunnel, etc., beneath the track of the Esquimalt & Nanaimo Railway Co. at Mileage 66·4 Victoria subdivision.
- 54317. May 18—Approving Traffic Agreement between the Bell Telephone Co. and the East Luther Telephone System.
- 54318. May 18—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54319. May 18—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54320. May 19—Authorizing the Parish of Ste. Therese de Blainville, Que., to construct a public crossing over the C.P.R. at mileage 18·4 Park avenue subdivision.
- 54321. May 19—Requiring the C.N.R. to reimburse the Montreal Light, Heat & Power Co. and the Bell Telephone Co. for expenditure incurred and paid in the removal and replacement of their facilities at certain streets, City of Montreal, etc.
- 54322. May 22—Authorizing the C.P.R. to construct branch line to serve Dewey and Almy Chemical Co. of Canada Ltd., in LaSalle, Que.
- 54323. May 21—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54324. May 20—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54325. May 22—Declaring the C.P.R. crossing near Moose Jaw Station, Sask., protected to Board's satisfaction.
- 54326. May 21—Authorizing the C.P.R. to construct a highway crossing near Pinto, Sask.
- 54327. May 21—Authorizing the Dept. of Public Works for British Columbia to construct a highway crossing of the Great Northern Railway at mileage 177·35 Oroville-Princeton branch.
- 54328. May 22—Approving clearance of transfer shed to be erected on siding of the R.C.A. Victor Company, Ltd., Montreal, Que., C.P.R.
- 54329. May 18—Amending Order No. 53337 authorizing the C.P.R. to construct an S per cent grade at crossing at south end of Jeanie St., Pakenham, Ont., providing for certain additional work to be done.

54330. May 25—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
54331. May 22—Amending Order No. 54304 distributing the cost of the subways at Richmond and Wellington streets, under the tracks of the C.N.R., City of London, Ont.
54332. May 25—Approving Bell Telephone Co. tariff covering exchange rates of the company at St. Jerome, Que.
54333. May 25—Approving by-law of the Cornwall-Northern New York International Bridge Corporation authorizing certain officials to issue tariffs of tolls to be charged.
54334. May 25—Declaring the New York Central Railroad crossing 0.73 of a mile east of Woodslee, Ont., protected to the Board's satisfaction.
54335. May 26—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in Supplements to tariffs filed by the Dominion Atlantic Railway Co. under sec. 9.
54337. May 26—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the Temiscouata Railway Co. under sec. 9.
54338. May 26—Approving the clearance of railing, etc., located between passenger track No. 4 and G Yard Lead, Vancouver Passenger Station, B.C. (C.P.R.).
54339. May 26—Approving Supplement No. 12 to Special Tariff No. 135, C.R.C. No. E.T.-1111, of terminal and switching charges, issued by Chairman, Express Traffic Association, Montreal, pending Board hearing.
54341. May 26—Authorizing the C.N.R. to construct highway crossing near Riding Mountain, Man.
54342. May 26—Approving Traffic Agreement between the Bell Telephone Co. and the Urban and Rural Telephone Co.
54343. May 28—Extending time within which the Municipality of the City of Levis, Que., may remove obstruction to the view at the crossing of St. Lawrence St., by the C.N.R.
54344. May 27—Declaring the C.P.R. crossing, first east of Thamesville Station, Ont., protected to the Board's satisfaction.
54345. May 27—Approving by-law of the Western Power Company of Canada, Ltd., authorizing certain officials to issue freight and passenger tariffs.
54346. May 27—Approving by-law of the Midland Railway Company of Manitoba, authorizing certain officials to issue tariffs of tolls to be charged.
54347. May 27—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
54348. May 27—Declaring the Dominion Atlantic Railway crossing of Morden road, near Auburn Station, N.S., protected to Board's satisfaction.
54349. May 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.P.R. under sec. 9.
- 54350.
- 54351.
54352. May 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Fredericton & Grand Lake Coal and Railway Co. under sec. 9.
54354. May 27—Approving by-law of the Temiscouata Railway Co. authorizing the General Manager to issue freight and passenger tariffs.
54355. May 28—Authorizing the C.N.R. to operate their cars over siding to chute of Storms Contracting Co. Ltd., near Sussex, N.B.
54356. May 28—Relieving the C.P.R. from maintaining cattle guards at crossings at mileages 0.79 Webbwood subdivision, 1.9 and 113.6 North Bay subdivision, various mileages on its Newport subdivision, and on its Quebec subdivision.
- 54357.
- 54358.
- 54359.
54360. May 28—Authorizing the Pere Marquette Railway Co. to install double bells and wigwags at its crossing of the highway east of Merlin Station, Ont.
54361. May 28—Relieving the Lake Erie & Northern Railway Co. from maintaining cattle guards at certain crossings in Township of Brantford, Ont.
54362. May 28—Relieving the C.P.R. from maintaining cattle guards at certain crossings
54363. May 31—on its Thessalon, Cartier, and St. Maurice Valley subdivisions.
54364. May 29—
54365. May 31—Authorizing the C.N.R. to construct highway crossing at Mileage 20.95 Senneterre-Rouyn branch line, Quebec.
54366. May 28—Authorizing the Municipality of Paipoung, Ont., to construct a highway crossing of the C.N.R. at mileage 13.80 Kashabowie subdivision.
54367. May 27—Authorizing the C.N.R. to construct their tracks across the Rouyn-Val d'Or road at mileage 92.83 from Senneterre, Province of Quebec.
54368. May 31—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
54369. May 31—Authorizing the Dept. of Roads for Quebec to construct an overhead crossing of the C.P.R. at mileage 152.61 Quebec subdivision.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, July 1, 1937

No. 8

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

ORDER No. 54368

*In the matter of tariffs and supplements to tariffs filed under the provisions of
the Maritime Freight Rates Act.*

File No. 34822.2

MONDAY, the 31st day of May, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 27 to Tariff C.R.C. No. E-2047.

Supplement 17 to Tariff C.R.C. No. E-2444.

Supplement 6 to Tariff C.R.C. No. E-2448.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54374

In the matter of the application of the Sydney and Louisburg Railway Company for approval of by-law dated May 14, 1937, authorizing the General Traffic and Transportation Manager, or the Assistant General Traffic and Transportation Manager of the Company, to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Company, and to submit the same to and file the same with the Board.

File No. 40316

TUESDAY, the 1st day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the said by-law of the Sydney and Louisburg Railway Company, dated May 14, 1937, on file with the Board under file No. 40316, be, and it is hereby, approved.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54382

In the matter of the application of the Toronto, Hamilton and Buffalo Railway Company, hereinafter called the "Applicant Company," for permission to cancel, on less than statutory notice, Pick Up and Delivery Tariff C.R.C. No. 1634.

File No. 27612.153

TUESDAY, the 1st day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the applicant company be, and it is hereby, granted leave to cancel, on three days' notice, its Pick Up and Delivery Tariff C.R.C. No. 1634, to enable it to make a new tariff uniform with the Canadian National and Canadian Pacific Railways new pick up and delivery tariffs effective June 14 instant.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54385

In the matter of the application of the Dominion Atlantic Railway Company, hereinafter called the "Applicant Company," for permission to correct, on less than statutory notice, the rate on lumber, in carloads, from Isenors Siding to Halifax, of three and one-half cents per 100 pounds, effective June 8, 1937, published in Supplement 37 to Tariff C.R.C. 906, Item 225.

File No. 27612.154

THURSDAY, the 3rd day of June, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.

F. N. GARCEAU, K.C., Deputy Chief Commissioner.

Upon its appearing that the said rate was published in error and it was intended to establish the same from Isenors Siding to Windsor Junction, to apply on traffic for furtherance via Canadian National Railways; and upon the recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the applicant company be, and it is hereby, granted leave to correct, on three days' notice, the said rate on lumber, in carloads, published in Supplement 37 to Tariff C.R.C. No. 906, item 225.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54386

In the matter of the application of the Public Utilities Commission of the City of Brantford, under Section 323 of the Railway Act, for approval of the by-law passed May 21, 1937, authorizing the Manager of the Street Railway Department of the said Public Utilities Commission to prepare and issue passenger tariffs of the tolls to be charged in respect of the railway owned and operated by the Commission, and to submit the same to and file the same with the Board.

File No. 40315

THURSDAY, the 3rd day of June, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.

F. N. GARCEAU, K.C., Deputy Chief Commissioner.

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the said by-law of the Public Utilities Commission of the City of Brantford, dated May 21, 1937, and on file with the Board under file No. 40315, be, and it is hereby, approved.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54397

In the matter of the application of the Northern Pacific Railway Company, under Section 323 of the Railway Act, for approval of by-law passed May 26, 1937, authorizing the General Freight Agent and the Passenger Traffic Manager of the Company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Company, and to submit the same to and file the same with the Board.

File No. 28088

FRIDAY, the 4th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Northern Pacific Railway Company, on file with the Board under file No. 28088, be, and it is hereby, approved.

2. That Order No. 26416, dated August 10, 1917, made herein, be, and it is hereby, rescinded.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54401

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 5th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 4105 of Supplement No. 6 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 4105 of Supplement No. 6 to Tariff C.R.C. No. E-4808, approved herein, is 37½ cents per 100 pounds.

S. J. McLEAN,
Assistant Chief Commissioner

ORDER No. 54402

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 5th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the tolls published from Bridgetown, Middleton, and Yarmouth, N.S., to Joliette, Que., in Tariff C.R.C. No. E-4324, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic from Bridgetown, Middleton, and Yarmouth, N.S., carried under the said Tariff C.R.C. No. E-4324, approved herein, are as follows:—

To Index No. 611	Rate Bases in Supplement No. 47 to C.P.R. Tariff C.R.C. No. E-3224	
	From Bridgetown, N.S. Middleton, N.S.	Yarmouth, N.S.
Joliette, Que.	66	72

One and one-half cents per 100 pounds to be deducted account of water haul.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54403

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.15

SATURDAY, the 5th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 197, filed by the Fredericton and Grand Lake Coal and Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 197, approved herein, is \$2.45 per ton of 2,000 pounds.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54409

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 7th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 14 to Tariff C.R.C. No. E-1231.
 Supplement 7 to Tariff C.R.C. No. E-1543.
 Supplement 32 to Tariff C.R.C. No. E-1906.
 Supplement 44 to Tariff C.R.C. No. E-1911.
 Supplement 1 to Tariff C.R.C. No. E-2224.
 Supplement 5 to Tariff C.R.C. No. E-2428.
 Supplement 6 to Tariff C.R.C. No. E-2526.
 Supplement 4 to Tariff C.R.C. No. E-2560.
 Supplement 10 to Tariff C.R.C. No. E-2564.
 Tariff C.R.C. No. E-2612.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54423

In the matter of the application of F. W. Thompson, Agent, Canadian Freight Association, for permission to postpone, on less than statutory notice, the effective date of his Tariff C.R.C. No. 328, until September 1, 1937.

File No. 27612.155

FRIDAY, the 11th day of June, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board, and its appearing that Canadian packing houses have requested such postponement, to which the railway companies have agreed, and that the Interstate Commerce Commission has also authorized similar postponement of the tariff, which contains international rates,—

It is ordered: That the said F. W. Thompson be, and he is hereby, granted leave to postpone, on five days' notice, the effective date of his Tariff C.R.C. No. 328, until September 1, 1937.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54425

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 11th day of June, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 6 of Supplement No. 38 to Tariff C.R.C. No. 906, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 6 of Supplement No. 38 to Tariff C.R.C. No. 906, approved herein, is 4 cents per 100 pounds.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54426

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 11th day of June, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the tolls published in item No. 38 of Supplement No. 2 to Tariff C.R.C. No. 987, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 38 of Supplement No. 2 to Tariff C.R.C. No. 987, approved herein, are as follows:—

Item	To	Cents per 100 pounds
38	Halifax, N.S.	15
	Windsor, N.S.	14½
	Wolfville, N.S.	14
	Kentville, N.S.	13
	Berwick, N.S.	12
	Aylesford, N.S.	11
	Middleton, N.S.	9
	Bridgetown, N.S.	8
	Annapolis, N.S.	7
	Weymouth, N.S.	7
	Church Point, N.S.	8
	Yarmouth, N.S.	10

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54427

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 11th day of June, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the tolls published from Yarmouth, N.S., to Ottawa, Ont., and Gatineau, Que., in Tariff C.R.C. No. 807, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic from Yarmouth, N.S., to Ottawa, Ont., and Gatineau, Que., carried under the said Tariff C.R.C. No. 807, approved herein, are as follows:—

	Cents per 100 pounds
To Ottawa, Ont.	L.C.L. 99
To Gatineau, Que.	L.C.L. 95½

One and one-half cents per one hundred pounds to be deducted account of water haul.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54434

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 11th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1048, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1048, approved herein, are also shown below, namely:—

From	Cents per 100 pounds for all groups					
	VIA Halifax, N.S.			VIA Saint John or West Saint John, N.B.		
	A	B	C	A	B	C
Bridgetown, N.S.	Tariff 20	20	18	7.6	7.6	7.7
	Normal 24½	24½	21½	9.5	9.5	9.6
Lawrencetown, N.S.	Tariff ..	20	18	...	7.9	6.6
	Normal ..	24½	22½	...	8.7	7.9
Middleton, N.S.	Tariff 20	20	18	8.2	8.2	7.5
	Normal 24½	24½	22½	10.3	10.3	9.4
Kingston, N.S.	Tariff ..	20	18	...	7.7	6.6
	Normal ..	24	22	...	8.8	7.9
Aylesford, N.S.	Tariff 20	20	18	7.7	7.7	6.6
	Normal 25	24	22	8.8	8.8	7.9
Berwick, N.S.	Tariff ..	20	17	...	7.6	6.5
	Normal ..	24	21½	...	9.5	8.1
Waterville, N.S.	Tariff 20	20	17	10.2	10.2	8.6
	Normal 25	24	21½	12.7	12.7	10.7
Lakeville, N.S.	Tariff ..	20	18	...	10.3	9.5
	Normal ..	24	22	...	12.5	11.8
Port Williams, N.S.	Tariff ..	16	15	...	7.8	7.1
	Normal ..	19	18	...	9.5	8.9
Wolfville, N.S.	Tariff ..	16	15	...	7.8	7.1
	Normal ..	19	18	...	9.5	8.9

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54436

In the matter of the application of the National Harbours Board, under Section 323 of the Railway Act, for approval of by-law dated 18th May, 1937, authorizing the Port Manager, Vancouver Harbour, to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the Terminal Railway, owned and operated by the National Harbours Board, and also to prepare and issue tariffs of the tolls to be charged in respect of the use for pedestrian, vehicular, or other traffic on, over, or across the bridge owned or operated by the National Harbours Board, known as Second Narrows Bridge, and to submit the same to and file the same with the Board.

File No. 30281.3

SATURDAY, the 12th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the National Harbours Board, on file with the Board under file No. 30281.3, be, and it is hereby, approved.

2. That orders numbered 34298, and 49592, dated respectively October 11, 1923, and March 2nd, 1933, made herein, be, and they are hereby, rescinded.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54442

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 15th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders:

That the tolls published in Tariff C.R.C. No. 1033, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1033, approved herein, are also as shown attached hereto marked "A" and "B":—

"B"

Item	Cents per 100 pounds	
	B	N
5	11.8	14.8
10	17.3	21.4
15 To		
Paradise, N.S.	18.8	21.2
Lawrencetown, N.S.	18.8	21.2
Middleton, N.S.	18.8	23.6
Aylesford, N.S.	19.3	22.8
Berwick, N.S.	19.0	23.8
Waterville, N.S.	26.1	31.7
Kentville, N.S.	26.1	31.7
Wolfville, N.S.	27.8	34.3
Windsor, N.S.	27.8	34.3
Kingsport, N.S.	28.1	33.8
20	18.4	23.0
25	59.5	74.5
30	10.8	13.6
35	18.4	23.0

S. J. McLEAN,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR APRIL, 1937

Railway Accidents..	155	with 17 killed and 181 injured.
Railway Accidents at Highway Crossings..	15	with 12 killed and 14 injured.
	<u>170</u>	<u>29</u> <u>195</u>

		Killed.	Injured.
Passengers.. . . . .		..	52
Employees..		4	101
Others..		25	42
		<u>29</u>	<u>195</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

No. of
Accidents

NOVA SCOTIA

- 1 Automobile—Ran into side of train. Licence N.S. 87-104.

NEW BRUNSWICK

- 1 Motorcycle—Motorcycle rider failed to see or hear train. Licence N.B. 122.

QUEBEC

- 1 Automobile—Driver disregarded bell and wig-wag; attempted to beat train. Licence Que. 5-109.
1 Auto Truck—Driver failed to stop for crossing. Licence Que. F-16350.
1 Pedestrian—Became confused; struck by train.

ONTARIO

- 1 Automobile—Driver disregarded flagman's signals. Licence Ont. 52-V-79.
1 Automobile—Excessive speed of auto; struck by train. Licence Ont. 400-E-7.
1 Automobile—Drove onto crossing in front of train; failed to see or hear same. Licence Ont. 79-R-96.
1 Automobile—Inexperienced driver drove onto crossing in front of train. Licence Ont. I-T-498.
1 Automobile—Drove onto crossing in front of train and was struck. Licence Ont. 119-T-8.
1 Auto Truck—Drove onto crossing in front of train and was struck. Licence Ont. 33972-C.
1 Auto Truck—Driver failed to see or hear train and was struck. Licence Ont. 67058-C.

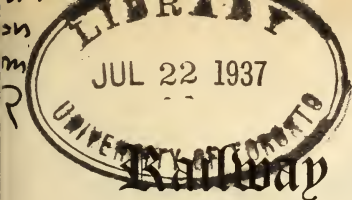
SASKATCHEWAN

- 1 Auto Truck—Ran into side of train. Licence Sask. CV-61.
1 Auto Truck—Driver attempted to beat train over crossing. Licence F-1-165.

ALBERTA

- 1 Automobile—Drove onto crossing in front of train; weather conditions contributory. Licence Alta. 36-567.

Of the 15 accidents at highway crossings, 13 occurred at Unprotected crossings, and 2 at Protected crossings. Eleven of the accidents occurred during the daylight hours, and four at night.
June 7, 1937.



The Board of

Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, July 15, 1937

No. 9

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Complaint of the R.M. of Excelsior No. 166, Rush Lake, Sask., and the Village of Waldeck, Sask., against proposed closing of private crossing in S.E. $\frac{1}{4}$ of Sec. 21-16-12 W3M., at Waldeck, on Swift Current Subdivision of Canadian Pacific Railway.

File No. 26807.47

Heard before the Board at Swift Current, Sask., on Tuesday, the 22nd day of June, 1937.

ORAL JUDGMENT DELIVERED BY THE CHIEF COMMISSIONER.

CHIEF COMMISSIONER:

Mr. Reyecraft, I think, in the opinion of the Board, the crossing should be maintained. It has been there for thirty years, the people have been accustomed to it and have enjoyed the use of it. The railway has done its part by maintaining it, and from anything that appears before the Board now I do not think that any change should be authorized at the present time. It should be continued as a private crossing.

ORDER No. 54446

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.2

THURSDAY, the 17th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board Orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 48 to Tariff C.R.C. No. E-1247.

" " 22 " " E-1256.

" " 32 " " E-2248.

" " 7 " " E-2448.

" " 11 " " E-2564.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54447

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.2

THURSDAY, the 17th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.**The Board Orders:*

1. That the toll published in Supplement No. 7 to Tariff C.R.C. No. E-1543, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Canadian Pacific Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Canadian Pacific Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 7 to Tariff C.R.C. No. E-1543, approved herein, is as follows:—

To	Cents per 100 pounds
Muniac, N.B.	B. 8 N 10

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54448

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

THURSDAY, the 17th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.**The Board Orders:*

1. That the minimum charge published in item No. 780, Note 5, of 1st revised page No. 44 to Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal minimum charge for any single shipment (unless the full tariff rate makes a lower charge), for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 780, Note 5, of 1st revised page No. 44 to Tariff C.R.C. No. E-4757, approved herein, will be \$7.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54451

In the matter of the application of the New York Central Railroad Company, under Section 323 of the Railway Act, for approval of by-law passed by the Executive Committee of the Board of Directors of the Company at a meeting held at New York, in the State of New York, on June 9th, 1937, authorizing the Freight Traffic Manager, Assistant Freight Traffic Manager, General Freight Agent, and Chief of Tariff Bureau to prepare and issue tariffs of the tolls to be charged by the Railroad Company in respect of the freight traffic, and the Passenger Traffic Manager, General Passenger Agent, Assistant General Passenger Agent, and Chief of Tariff Bureau to prepare and issue tariffs of the tolls to be charged by the Railroad Company in respect of passenger traffic.

Case No. 3276

SATURDAY, the 19th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is Ordered:

1. That the said by-law of the New York Central Railroad Company, on file with the Board under Case No. 3276, be, and it is hereby, approved.

2. That Orders numbered 5946, 10917, 13060, 16183, 26612, 29788, 31250, 39607, 39922, 44428, and 49013, dated respectively December 23, 1908, June 16, 1910, February 21, 1911, March 28, 1912, October 5, 1917, June 22, 1920, July 11, 1921, September 20, 1927, November 23, 1927, March 8, 1930, and September 3, 1932, made herein, be, and they are hereby rescinded.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54449

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to publish, on less than statutory notice, restriction in connection with the application of rates in Item 20 of their Tariff C.R.C. No. E-2604, covering commodity rates, l.c.l., including pick-up and/or delivery service, the said Item 20 applying between Montreal, Quebec, and Toronto, Ontario, and authorizing a rate of 70 cents per 100 pounds on shipments weighing less than 5,000 pounds, and 60 cents per 100 pounds on shipments weighing 5,000 pounds or more, forwarded from one consignor to one consignee.

File No. 27612.156

MONDAY, the 21st day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon its appearing that the said restriction was omitted through error, and that the Canadian Pacific Railway Company publishes the same rates in its Tariff C.R.C. No. E-4750, item No. 1, and provides for the restriction,—

It is Ordered: That the applicants be, and they are hereby, permitted to make effective, upon one day's notice, restriction in connection with the application of the said rates in Item 20 of their Tariff C.R.C. No. E-2604, reading as follows:—

"Rates in this item will not apply on export, import, or furtherance shipments, nor on any traffic received from or delivered to steamship sheds at Montreal, Que."

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54468

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 22nd day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board Orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 33 to Tariff C.R.C. No. E-1906.

“ “ 32 “ “ “ E-1974.

“ “ 28 “ “ “ E-2047.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54457

In the matter of the application of the Canadian Pacific Railway Company, hereinafter called the “Applicant Company,” for permission to file, on less than statutory notice, a supplement to its Tariff C.R.C. No. E-4814, which publishes less than carload rates including collection and delivery service, to correct errors which have been noticed since the tariff became effective.

File No. 27612.157

WEDNESDAY, the 23rd day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the applicant company be, and it is hereby, granted leave to file, on three days' notice, a supplement to its said Tariff C.R.C. No. E-4814, to correct errors.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54470

In the matter of the application of the Canadian National Railways, hereinafter called the “Applicants,” for permission to file, on less than statutory notice, a supplement to their Tariff C.R.C. No. E-2604, to correct an error.

File No. 27612.156

WEDNESDAY, the 23rd day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon its appearing that through a typographical error the rate basis applicable between Montreal, Quebec, and Paris, Ontario, appears on page 102 of the said tariff as “90” instead of “94”—and upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the applicants be, and they are hereby, granted leave to file, on one day's notice, a supplement to their Tariff C.R.C. No. E-2604, to correct the said error.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54471

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.8

THURSDAY, the 24th Day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.**The Board orders:*

1. That the tolls published in Tariff, C.R.C. No. 59, filed by the Sydney and Louisburg Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 59, approved herein, are as follows:—

Miles		Cents per 100 pounds
Not over 10	.....	4
Over 10 not over 20	.....	3½
“ 20 “ 30	.....	4
“ 30 “ 40	.....	5

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54480

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 25th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.**The Board orders:*

1. That the toll published in item No. 198A of Supplement No. 37 to Tariff C.R.C. No. E-4322, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 198A of Supplement No. 37 to Tariff C.R.C. No. E-4322, approved herein, to East Angus, Quebec, is 25½ cents per 100 pounds.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54489

In the matter of the tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 28th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 34 to Tariff C.R.C. No. E-1906.

Supplement No. 5 to Tariff C.R.C. No. E-2474.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54487

In the matter of the application of the Pere Marquette Railway Company, under Section 323 of the Railway Act, for approval of by-laws of the Company, as amended June 15, 1937, authorizing the General Freight Agent and the Assistant General Freight Agent to prepare and issue from time to time tariffs of the freight tolls to be charged in respect of the lines of railway owned or operated by the Company; also authorizing the General Passenger Agent and the Assistant General Passenger Agent of the Company to prepare and issue from time to time tariffs of the passenger tolls to be charged in respect of the lines of railway owned or operated by the Company.

File No. 1026

MONDAY, the 28th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the said by-laws, as amended June 15, 1937, on file with the Board under file No. 1026, be, and they are hereby, approved.

2. That orders numbered 190, 15269, 16382, 27932, and 38557, dated respectively October 18, 1904, November 2, 1911, April 25, 1912, December 17, 1918, and December 16, 1926, made herein, be, and they are hereby, rescinded.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54490

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 29th day of June, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.**The Board orders:*

1. That the tolls published in items 239 and 240B of Supplement No. 39 to Tariff C.R.C. No. 906, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items 239 and 240B of Supplement No. 39 to Tariff C.R.C. No. 906, approved herein, are as follows:—

Item		Cents per 100 pounds
239..	C.L.	21½
	L.C.L.	35
240B	From	
	Brazil Lake, N.S.	12½
	Meteghan, N.S.	11
	Weymouth, N.S.	11

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54508

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 5th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 11	to	Tariff C.R.C. No. E-1248.
" " 14	" " " "	E-1261.
" " 8	" " " "	E-2448.
" " 12	" " " "	E-2564.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54509

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 6th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 430A of Supplement No. 1 to Tariff C.R.C. No. E-4790, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Item No. 430A of Supplement No. 1 to Tariff C.R.C. No. E-4790, approved herein, are as follows:—

Item	Cents per 100 pounds		
	Groups		
	H	K	L
430A	159½	162½	164

From stations on the Dominion Atlantic Railway one and one-half cents per one hundred pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

54370. June 1—Declaring the C.N.R. crossing of Vinet St., Montreal, protected to Board's satisfaction.
54371. June 1—Declaring the C.N.R. crossing, second north of Inglewood Station, Ont., protected to Board's satisfaction.
54372. June 1—Declaring the C.N.R. crossing, first south of Tansley Station, Ont., protected to Board's satisfaction.
54373. June 1—Requiring that no cars or engines of the C.P.R. be left standing within twenty-five feet of each side of Dundas St. crossing, Galt, Ont.
54374. June 1—Approving by-law of the Sydney & Louisburg Railway Co. authorizing certain officials to issue freight and passenger tolls.
54375. June 1—Authorizing the C.N.R. to use bridge over Carrot Creek, mileage 105·4 Wabamun Subdivision, Alberta.
54376. June 1—Amending Order No. 53404 re sight lines at crossing at mileage 22·88 MacTier Subdivision, C.P.R., near Bolton station, Ont., by substitution of a new plan.
54377. June 1—Authorizing the C.N.R. to use bridge over Lambert Creek, mileage 17·5 Lovett Subdv., Alberta.
54378. June 1—Authorizing the Esquimalt & Nanaimo Railway Co., to construct branch line and spur to serve Hillcrest Lumber Co., Ltd., at mileage 4·0 Lake Cowichan Subdv., B.C.
54379. June 1—Approving Traffic Agreement between the Bell Telephone Co. and the Lansdowne Rural Telephone Co., Ltd.
54380. June 1—Authorizing the New York Central Railroad Co. and the Sandwich, Windsor & Amherstburg Railway Co. to operate their trains over crossing at Amherstburg, Ont., subject to certain conditions.
54381. June 1—Authorizing the C.N.R. to construct their railway across Lake Blouin Road, mileage 36·45 from Senneterre, Que.
54382. June 1—Authorizing the T. H. & B. Rly. Co. to cancel on three days' notice its Pick Up and Delivery Tariff C.R.C. No. 1634.
54383. June 1—Authorizing the C.N.R. to construct their track across public road at mileage 37·89 from Senneterre, Que.
54384. June 1—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Trois Rivières Subdv., Que.
54385. June 3—Authorizing the Dominion Atlantic Railway Co. to correct on three days' notice rate on lumber, carloads, published in Supplement 37 to Tariff C.R.C. No. 906, Item 225.
54386. June 3—Approving by-law of the Public Utilities Commission of the City of Brantford, authorizing the Manager of the Street Railway Dept. to issue passenger tariffs.
54387. June 3—Amending Order No. 53955 re protection at the C.N.R. crossing of Alexandre Taschereau Boulevard, Town of Greenfield Park, Que., to provide for error in estimate of cost of double bells and wigwags.
54388. June 3—Approving Traffic Agreement between the Bell Telephone Co. and the Danis Telephone System.
54389. June 3—Declaring the C.P.R. crossing of King St., at the intersection of Belvedere St., Sherbrooke, Que., protected to Board's satisfaction, so long as the present speed limitation of ten miles an hour is in effect.
54390. June 2—Declaring the Great Northern Railway Co. crossing at Main St., Vancouver, B.C., protected to Board's satisfaction, subject to certain conditions.
54391. June 2—Authorizing the C.N.R. to install bell and wigwag at highway crossing one mile east of Goderich, Ont.
54392. June 2—Authorizing the C.P.R. to install double bells and wigwags along the line of Wellington St., Sault Ste. Marie, Ont.
54393. June 3—Authorizing the C.N.R. to install double bells and wigwags at crossing of County Road No. 14 west of Stouffville Station, Ont.
54394. June 2—Requiring the Lake Erie & Northern Railway Co. to install bell and wigwag at crossing at mileage 40·2, Port Dover & Galt Subdivision.
54395. June 2—Declaring the C.P.R. crossing at Florence Road, near Bothwell Station, Ont., protected to Board's satisfaction.
54396. June 3—Requiring the C.N.R., the Township of Scarborough, the City of Toronto, and the Township of East York to construct a subway carrying Victoria Park avenue under the tracks of the C.N.R., at the city limits of city of Toronto, Ont.
54397. June 4—Approving by-law of the Northern Pacific Railway Co., authorizing certain of its officials to issue freight and passenger tolls.
54398. May 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Piles Subdivision, Quebec.

- 54399. June 4—Authorizing the C.P.R. to operate its trains over subway at mileage 0-76 Kingsgate Subd., at Curzon, B.C.
- 54400. June 7—Authorizing the C.N.R. to construct an additional track across Bayfield-Cape Spear Road at Cape Tormentine, N.B.
- 54401. June 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff and supplement to tariff filed by the C.P.R. under sec. 9.
- 54402. June 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Fredericton & Grand Lake Coal & Railway Co. under sec. 9.
- 54404. June 7—Authorizing the C.P.R. to construct a branch line of railway and two spurs therefrom to serve the Schroeder Timber Products Co., Ltd., at mileage 2-25, Arrow Lake Subdivision, B.C.
- 54405. June 7—Extending the time within which the C.P.R. may install double bells and wigwags at highway crossing west of Deroche, B.C.
- 54406. June 7—Authorizing the C.N.R. to operate under overhead highway bridge at Clericy, Que.
- 54407. June 5—Approving Traffic Agreement between Bell Telephone Co. and the Wright & Pontiac Telephone Co. Inc.
- 54408. June 5—Approving Traffic Agreement between Bell Telephone Co. and La Cie de Telephone Rural Ste. Angele de Laval.
- 54409. June 7—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54410. June 7—Authorizing the C.P.R. to construct a branch line of railway to serve the Shawinigan Water & Power Co., Ltd., at mileage 3-59, St. Maurice Valley Subdivision, Que.
- 54411. June 7—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Listowel Subdivision, Ont.
- 54412. June 8—Declaring the C.P.R. crossing at mileage 64-80, Cranbrook Subdivision, B.C., protected to Board's satisfaction.
- 54413. June 8—Authorizing the C.N.R. to construct their railway across public road at mileage 0-55, Senneterre-Rouyn branch line.
- 54414. June 8—Approving the details of the C.P.R. proposed station at Highwater, Que.
- 54415. June 7—Approving traffic agreement and service station contracts between the Bell Telephone Co. and the Perry Telephone System.
- 54416. June 10—Requiring the C.P.R. to install wigwag signals and bell at the crossing of Raleigh St. and alter operating circuit for signal at Lacroix St., City of Chatham, Ont.
- 54417. June 8—Declaring the C.N.R. crossing first south of St. Norbert Station, Man., protected to Board's satisfaction.
- 54418. June 8—Declaring the C.P.R. crossing first east of Taghum Station, B.C., protected to Board's satisfaction.
- 54419. June 10—Authorizing the Dept. of Highways for Nova Scotia to construct a diversion of Trunk Highway No. 3 between Chester and East Chester, N.S., and to close certain crossings.
- 54420. June 8—Authorizing the C.N.R. to cross highway at mileage 2-83, Senneterre-Rouyn branch line.
- 54421. June 10—Requiring the C.N.R. to install additional wigwag signal at highway crossing just east of Hampton Station, N.B.
- 54422. June 10—Authorizing the Dept. of Highways for Nova Scotia to divert Trunk Highway No. 3 so as to eliminate existing grade level crossing of the C.N.R. at Goat Lake, N.S.
- 54423. June 11—Granting leave to F. W. Thompson, agent, Canadian Freight Association, to postpone on five days' notice effective date of Tariff C.R.C. No. 328, until September 1, 1937.
- 54424. June 10—Authorizing the C.N.R. to remove their station building at Smithfield, Ont.
- 54425. June 11—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff and supplements to tariffs filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54426. June 12—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Maniwaki Subdivision, Que.
- 54427. June 12—Approving Traffic Agreement between the Bell Telephone Co. and A. Ronald, proprietor of the Minesing Telephone System.
- 54428. June 12—Approving relocation of C.N.R. station shelter at Davangus, Que.
- 54429. June 11—Declaring the C.N.R. crossing of Wellington St., Aurora, Ont., protected to Board's satisfaction, subject to certain conditions.
- 54430. June 12—Declaring the C.P.R. crossing at Sydenham Road, south of Catarauqui Station, Ont., protected to Board's satisfaction.
- 54431. June 12—Approving plans showing proposed subway to be constructed by the C.N.R. under their track on Brown's Line road, mileage 12-37, Brampton Subdivision, Ont.
- 54432. June 12—Approving plans showing proposed subway to be constructed by the C.N.R. under their track on Brown's Line road, mileage 12-37, Brampton Subdivision, Ont.

- 54434. June 11—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54435. June 12—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Montreal & Ottawa Subdivisions.
- 54436. June 12—Approving by-law of the National Harbours Board authorizing the Port Manager, Vancouver Harbour, to issue freight and passenger tolls.
- 54437. June 16—Approving supplement to exchange and toll line agreement between the Bell Telephone Co. and the Stroud Telephone Co. Ltd.
- 54438. June 15—Authorizing the C.N.R. to cross highway at mileage 94·85, Rouyn-Senneterre Branch, Quebec.
- 54439. June 16—Declaring the C.N.R. highway crossing west of Nelles Corners Station, Ont., protected to Board's satisfaction.
- 54440. June 16—Approving crossing of the C.P.R. on Douglas St., Red Deer, Alta.
- 54441. June 16—Declaring the C.N.R. crossing west of Ste. Genevieve Station, Que., protected to Board's satisfaction.
- 54442. June 15—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54443. June 15—Authorizing the C.N.R. to cross road at mileage 97·68, Senneterre-Rouyn Branch, Quebec.
- 54444. June 17—Requiring the London & Port Stanley Railway to maintain a speed restriction of six miles an hour over their line a short distance south of Talbot St., St. Thomas, Ont.
- 54445. June 18—Authorizing the C.N.R. to cross highway at mileage 100·31, Rouyn-Senneterre Branch line, Quebec.
- 54446. June 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff and supplement filed by the C.N.R. under sec. 3.
- 54448. June 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, item to tariff filed by the C.P.R. under sec. 9.
- 54449. June 21—Authorizing the C.N.R. to make effective restriction in connection with application of certain rates in item 20 of their Tariff C.R.C. No. E-2604.
- 54450. June 19—Requiring the C.N.R. to install double bells and wigwags at crossing east of Edmundston, N.B.
- 54451. June 19—Approving by-law of the New York Central Railroad Co. authorizing certain officials to issue tariffs of tolls.
- 54452. June 21—Authorizing the C.P.R. to construct branch line to serve Dryden Paper Co. Ltd., at Dryden, Ont.
- 54453. June 21—Extending time within which C.P.R. may complete branch line to serve Greater Winnipeg Sanitary District, Man.
- 54454. June 21—Approving Traffic Agreement between the Bell Telephone Co. and La Compagnie de Telephone de Nicolet, Limitée.
- 54455. June 21—Approving Traffic Agreement between Bell Telephone Co. and Marysburg Telephone Co.
- 54456. June 21—Authorizing C.N. Rys. to construct six highway crossings near Transeona, Man.
- 54457. June 23—Authorizing C.P.R. to file on three days' notice a supplement to tariff C.R.C. No. E-4814, to correct errors.
- 54458. June 22—Declaring C.P.R. crossing, first west of Drumbo, Ont., satisfactorily protected, so long as same is flagged by a member of train crew whenever a train is occupying passing track and it is necessary to cut the crossing.
- 54459. June 22—Extending until July 19, 1937, time within which C.N.Rys. may make application for leave to appeal from Order 54321, *re* removal and replacement of facilities of Bell Telephone Co. and Montreal Light, Heat & Power Cons., at certain streets in Montreal, Que.
- 54460. June 22—Relieving C.P.R. from maintaining cattle guards at certain crossings in the Tp. of Petawawa, Ont.
- 54461. June 22—Relieving C.P.R. from maintaining cattle guards at mileage 0·2 and 0·46 Orford Subd'n., Ont.
- 54462. June 22—Relieving C.P.R. from maintaining cattle guards at certain crossings in Tps. of Oso and Belmont, Ont.
- 54463. June 22—Relieving C.P.R. from maintaining cattle guards at certain crossings in Tp. of Litchfield, Ont.
- 54464. June 22—Authorizing C.N.Rys. to construct bridge over Wabanoni River, Senneterre-Rouyn Line, Que.
- 54465. June 22—Authorizing C.N.Rys. to construct bridge across Black River, Senneterre-Rouyn Line, Que.
- 54466. June 22—Authorizing C.N. Rys. to construct bridge across Vaudray Creek, Senneterre-Rouyn Line, Que.
- 54467. June 22—Authorizing C.N.Rys. to construct bridge across Joannes Creek, mileage 80·19 Senneterre-Rouyn Line, Que.

- 54468. June 22—Approving under Maritime Freight Rates Act, sec. 3, sub-sec. 3, tolls published in tariffs filed by C.N.Rys. under sec. 3.
- 54469. June 22—Authorizing C.P.R. to construct spur to serve John Deere Plow Co., Ltd., at Lethbridge, Alta.
- 54470. June 23—Granting leave to C.N.Rys. to file on one day's notice a supplement to tariff C.R.C. No. 2604 to correct an error.
- 54471. June 24—Approving under Maritime Freight Rates Act, sec. 3, sub-sec. 3, tolls published in tariff C.R.C. No. 59 filed by Sydney & Louisburg Ry. under sec. 9.
- 54472. June 24—Relieving C.P.R. from maintaining cattle guards at five crossings on its Galt Subd'n., Ont.
- 54473. June 23—Authorizing C.P.R. to reconstruct bridge No. 24·6, Owen Sound Subd'n., Ont.
- 54474. June 23—Authorizing C.P.R. to construct spur to serve Metal Salvage Co., Ltd., at Toronto, Ont.
- 54475. June 23—Authorizing C.P.R. to construct spur to serve James Kerrigan and Creston Co-operative Fruit Exchange at Creston, B.C.
- 54476. June 23—Authorizing C.P.R. to construct spur to serve Granby Consolidated Mining, Smelting & Power Co., Ltd., at mileage 1·05 Copper Mountain Subd'n., B.C.
- 54477. June 24—Relieving C.P.R. from maintaining cattle guards at five crossings on its Montreal & Ottawa Subd'n., Ont.
- 54478. June 24—Relieving C.P.R. from maintaining cattle guards at crossing at mileage 9·09 Listowel Subd'n., Ont.
- 54479. June 24—Relieving C.P.R. from maintaining cattle guards at five crossings on its Hamilton & Goderich Subd'n, Ont.
- 54480. June 25—Approving under Maritime Freight Rates Act, sec. 3, sub-sec. 3, toll published in item 198A of Supp. 37 to tariff C.R.C. No. E-4322 filed by C.P.R. under sec. 9.
- 54481. June 26—Authorizing the C.N.R. to construct a car ferry slip at Peachland, B.C.
- 54482. June 25—Authorizing the C.P.R. to construct branch line to serve M. Fefferman, Lethbridge, Alta.
- 54483. June 26—Authorizing the C.P.R. to operate over subway on Portage Avenue, Winnipeg, Man.
- 54484. June 25—Approving changes to C.P.R. station building at Caledonia Springs, Ont.
- 54485. June 28—Approving Traffic Agreement between Bell Telephone Co. and Commissioners for Telephone System of the Municipality of the Township of Mornington.
- 54486. June 26—Authorizing the C.N.R. to render draw span fixed at bridge over the Mersey River at Liverpool, N.S., subject to certain conditions.
- 54487. June 28—Approving by-laws of the Pere Marquette Railway Co. authorizing certain officials to issue tariffs of tolls.
- 54488. June 29—Authorizing the C.N.R. to cross public road at mileage 25·07 Senneterre-Rouyn Line, Quebec.
- 54489. June 28—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54490. June 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in items of supplement to tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54491. June 30—Extending the time for re-establishing train service between International Boundary and Princeton, B.C., until August 1, 1937, on the line of the Vancouver, Victoria & Eastern Railway and Navigation Co.
- 54492. June 30—Approving plans showing proposed bridge over tracks of the Vancouver, Victoria & Eastern Railway & Navigation Co. and the National Harbours Board, Vancouver, B.C.
- 54493. June 28—Authorizing the C.P.R. to construct branch line to serve International Nickel Co. of Canada, Ltd., at Clara Belle, Ont.
- 54494. June 29—Approving traffic agreement between the Bell Telephone Co. and the Hopetown Telephone Co. Ltd.
- 54495. June 28—Approving traffic agreement between the Bell Telephone Co. and the Welland County Telephone Co. Ltd.
- 54496. June 28—Approving Traffic Agreement between the Bell Telephone Co. and the Lavant Dalhousie Telephone Co. Ltd.
- 54497. June 30—Authorizing the Dept. of Highways for Ontario to construct highway bridge over spur tracks of C.N.R. at Burk's Falls, Ont.
- 54498. June 30—Authorizing the C.N.R. to construct an extension of ferry slip track across and along highway at Westbank, B.C.
- 54499. June 30—Directing the C.P.R. to appoint a station agent at Middle Lake, Sask.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, August 1, 1937

No. 10

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Application of Brewery Products Limited, Winnipeg, Manitoba, re clearances at their warehouse at 132 James Street East, Winnipeg—Canadian National Railways.

(File No. 1750.18.351)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by Brewery Products Limited, Winnipeg, Manitoba, for the permission of the Board to allow the company to use a certain building erected upon a spur line track of the Canadian National Railways at the company's premises at the rear of 132 James street east, Winnipeg. The application was heard at Winnipeg on June 25, 1937, in the presence of counsel for the applicant and for the Canadian National Railways.

It appears that at these premises in Winnipeg the applicant operates a distributing warehouse handling the products of four breweries located in the city of Winnipeg. The applicant is the lessee of the premises under a five-year lease from 1st day of May, 1936. When the applicant took possession of the premises there was a loading platform upon a narrow lane at the rear of the building upon which lane runs a spur track or switch to the Canadian National Railways. Subsequent to taking possession of the premises the applicant obtained permission from the city of Winnipeg to extend the existing platform in the lane for a distance of 94 feet in length and 8 feet in width. The applicant afterwards erected a storage warehouse upon this platform for the purpose of storing its products before shipment. The structure so erected is of sheet metal and is 12 feet in height and 7 feet 4 inches in width on the inside. The maximum clearance from the gauge side of the nearest rail is 3 feet 8 inches at one end and 3 feet 6 inches at the other.

A General Order of the Board, No. 236, dated May 20, 1918, provides in paragraph 7 (c) that

“no structure over four feet high shall be placed within six feet from the gauge side of the nearest rail without first obtaining the approval of the Board.”

The applicant states that it was not aware of this General Order at the time it erected the platform and superstructure, and application is now made to the Board for permission to continue the use of the same for shipping purposes.

The Board visited the premises for the purpose of making an examination of the actual situation. In the opinion of the Board the sheet metal building erected upon the said platform constitutes a dangerous structure which might cause serious accidents to railway employees engaged in operating trains over the said track. The platform itself is not necessarily dangerous to railway employees. It is the superstructure which causes the danger. This building should be removed to a distance of six feet from the gauge side of the nearest rail in compliance with the provisions of General Order No. 236.

There will, therefore, be an Order of the Board for the removal of this superstructure. The same should be removed within thirty days from the date of the order to be made herein.

July 8, 1937.

Commissioners Stoneman and Stone concurred.

ORDER No. 54531

In the matter of the clearances in the vicinity of covered-in loading platform of the Brewery Products Limited on the Canadian National Railways at James Street, in the City of Winnipeg, Province of Manitoba.

File No. 1750.18.351

FRIDAY, the 9th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C. *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held at Winnipeg, June 25, 1937, in the presence of counsel for the Brewery Products Limited and the Railway Company, and what was alleged; and upon an examination by the Board of the locus in quo,—

It is ordered: That, within thirty days from the date of this order, the Brewery Products Limited remove the sheet metal building erected upon the platform at its premises in the city of Winnipeg, province of Manitoba, to a distance of six feet from the gauge side of the nearest rail of the Canadian National Railways, in compliance with the provisions of section 7 (c) of General Order No. 236, dated May 20, 1918.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54511

In the matter of the application of the Thousand Islands Bridge Authority, under Section 323 of the Railway Act, for approval of by-law adopted on the 5th June, 1937, authorizing the Secretary of the Company to prepare and issue tariffs of the tolls to be charged in respect of the use for pedestrian, vehicular, or other traffic on, over, or across the bridge owned or operated by the Bridge Authority, and to submit the same to and file the same with the Board.

File No. 40206.1

MONDAY, the 5th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C. *Chief Commissioner.*S. J. McLEAN, *Asst. Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Thousand Islands Bridge Authority, on file with the Board under file No. 40206.1, be, and it is hereby, approved.

2. That Order No. 54212, dated April 23, 1937, made herein, be and it is hereby rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54512

In the matter of the application of the Essex Terminal Railway Company, under Section 323 of the Railway Act, for approval of by-law passed June 22, 1937, authorizing the Traffic Manager of the Company to prepare and issue freight tariffs of the tolls to be charged in respect of the railway owned and operated by the Company, and to submit the same to and file the same with the Board.

File No. 13332.1

MONDAY, the 5th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C. *Chief Commissioner.*S. J. McLEAN, *Asst. Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-law of the Essex Terminal Railway Company, on file with the Board under file No. 13332.1, be, and it is hereby, approved.

2. That Order No. 9951, dated March 19, 1910, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54513

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 6th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C. *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in items Nos. 511 and 930 of Supplement No. 15 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 511 and 930 of Supplement No. 15 to Tariff C.R.C. No. 1006, approved herein, are as follows:—

Item	Cents per 100 pounds
511	9
930	Normal minimum charge for any single shipment (unless the full tariff rate makes a lower charge) will be \$7

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54536

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 10th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in Supplement No. 38 to Tariff C.R.C. No. E-4322, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 38 to Tariff C.R.C. No. E-4322, approved herein, are as follows:—

	Cents per 100 pounds
Andover, N.B.	15½
Aroostook, N.B.	16½
Bath, N.B.	15½
Florenceville, N.B.	14½
Fredericton, N.B.	11
Grand Falls, N.B.	16½
Hartland, N.B.	14½
Limestone, N.B.	16½
Perth, N.B.	15½
Plaster Rock, N.B.	16½
River de Chute, N.B.	15½
Tobique Narrows, N.B.	15½
Upper Kent, N.B.	15½
Woodstock, N.B.	14½

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54532

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to file, on less than statutory notice, a supplement to their Tariff C.R.C. No. W-924 to correct an error.

File No. 27612.158

MONDAY, the 12th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C. *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon its appearing that through an error the rates from New Westminster, Vancouver, and Victoria, British Columbia, to Edmonton, Alberta, under commodity groups "A" and "B" were transposed in the publication of Supplement No. 55 to Canadian National Railways' tariff C.R.C. No. W-924; and upon the recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the applicants be, and they are hereby, permitted to issue and file with the Board, to be effective July 12, 1937, a supplement to the said Tariff C.R.C. No. W-924 correcting the error and properly showing the carload rates applicable from New Westminster, Vancouver, and Victoria, British Columbia, to Edmonton, Alberta, as being 98 cents per 100 pounds on ale, beer, and porter, and \$1.45 per 100 pounds on brandy, gin, rum, whisky, and other alcoholic liquors.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54547

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 12th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 33	to Tariff C.R.C. No. E-1974
" " 33	" " " E-2248
" " 18	" " " E-2444
" " 5	" " " E-2560

Tariff C.R.C. No. E-2629

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54548

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 13th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items Nos. 310A, 530A, and 3910E of Supplement No. 10 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 310A, 530A, and 3910E of Supplement No 10 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

Item	Cents per 100 pounds
310A.. . . .	18
530A From Cumberland Bay, N.B., to Saint John, N.B.. . . .	6
Cumberland Bay, N.B., to West Saint John, N.B.. . . .	6
3910E From Saint John, N.B. to St. Evariste, Que.. . . .	36½

H. GUTHRIE,

Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR MAY, 1937

Railway Accidents..	187	with 32 killed and 211 injured
Railway Accidents at Highway Crossings..	14	with 5 killed and 13 injured
	<u>201</u>	<u>37</u> <u>224</u>

		Killed	Injured
Passengers.. . . . .		..	45
Employees..		11	140
Others..		26	39
		<u>37</u>	<u>224</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

No. of
Accidents

NEW BRUNSWICK

- 1 Automobile—Driver failed to heed bell and wig-wag signals. Licence N.B. 18-231.

QUEBEC

- 1 Automobile—Failed to stop for crossing; ran into side of train. Licence Que. 101529.
1 Auto Truck—Failed to stop for crossing; attempted to beat train. Licence Que. B-645.
1 Auto Truck—Disregarded city traffic lights; failed to stop for crossing. Licence Que. F-9434.
1 Pedestrian—Boy passed under gates which were in protective position.

ONTARIO

- 1 Automobile—Ran into side of train. Licence Ont. 59-E-56.
2 Automobile—Failed to see or hear train and drove onto crossing in front of same. Licences Ont. 733-V-2; Ont. 147-V-6.
1 Auto Truck—Disregarded bell and wig-wag signals and drove onto crossing in front of train. Licence Ont. 39-060-C.
1 Pedestrian—Standing at crossing; failed to keep clear of train.

MANITOBA

- 1 Automobile—Failed to observe approaching train and drove onto track in front of same. Licence Man. 20-128.

BRITISH COLUMBIA

- 1 Automobile—Driven onto crossing in front of cars pushed by engine; struck. Licence B.C. 42-140.
1 Automobile—Ran into side of train. Licence B.C. 39-859.
1 Auto Truck—Failure of driver to properly control truck carrying 3½ tons of gasoline. Struck by passenger train. Licence B.C. 678.

Of the 14 accidents at highway crossings, 9 occurred at Unprotected Crossings, and 5 at Protected Crossings. Nine of the accidents occurred during the daylight hours, and five at night.

OTTAWA, July 9, 1937.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, August 15, 1937

No. 11

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Application of the C.P.R. Co., under Secs. 181, 182, 251 and 252 of the Railway Act, for authority to construct, maintain and operate branch line to serve Lake Sulphite Pulp Company at mileage 68.33, Nipigon Subd., and to cross Canadian National Railways and Trout Creek by means of an overhead bridge in Lot 3, Con. 2, Twp. Nipigon, District of Thunder Bay, at Red Rock, Ont.

File No. 40391

Heard before the Board at Ottawa, Ont., on Friday, the 16th day of July, 1937

ORAL JUDGMENT DELIVERED BY THE CHIEF COMMISSIONER

CHIEF COMMISSIONER:

The opinion of the Board is that the order should be granted; that the clearance should be 23 feet 4 inches from the base of the present rail, and that the clause suggested by Mr. Spence be inserted in the order; that that will afford ample protection for the Canadian National Railways. If difficulty should arise the matter can be again brought to the attention of the Board as provided in that clause. There will be an order accordingly.

ORDER No. 54560

In the matter of the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company," under Sections 181, 182, 251 and 252 of the Railway Act, for authority to construct, maintain and operate a branch line of railway to serve the Lake Sulphite Pulp Company, Limited, commencing at a point on the Applicant Company's right of way at mileage 68.33, Nipigon Subdivision, in Lot 4, thence in an easterly direction across said lot, crossing Canadian National Railways and Trout Creek by means of an overhead bridge in Lot 3, Concession 2, to and into Lot 3 in Concession 1, all in the Township of Nipigon, District of Thunder Bay, at Red Rock, Ontario, as shown in red on the plan and profile and described in the book of reference combined dated June 12, 1937—deposited in the Registry Office at Port Arthur on June 21, 1937, as No. 1166—on file with the Board under file No. 40391.

FRIDAY, the 16th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held in Ottawa, July 16, 1937, in the presence of counsel for the applicant company and the Canadian National Railways, and what was alleged; and upon the report of the Chief Engineer of the Board,—

It is ordered:

1. That the applicant company be, and it is hereby authorized to construct, maintain, and operate a branch line of railway to serve the Lake Sulphite Pulp Company, Limited, commencing at a point on the applicant company's right of way at mileage 68.33, Nipigon Subdivision, in lot 4, thence in an easterly direction across said lot, crossing Canadian National railways and Trout creek by means of an overhead bridge in lot 3, concession 2, to and into lot 3 in concession 1, all in the township of Nipigon, district of Thunder Bay, at Red Rock, in the province of Ontario, as shown in red on the said plan and profile and described in the book of reference combined dated June 12, 1937, and bridge plan No. 52920, revised to June 29, 1937, on file with the Board under file No. 40391.

2. That the clearance of the proposed overhead bridge be twenty-three feet four inches from the base of the present rail.

3. That the said bridge be constructed and at all times maintained by the applicant company at its own expense, so as not to interfere with the safe and proper maintenance and operation of the Canadian National Railways; and that any question arising between the parties be subject to further order of the Board.

4. That the proposed branch line be constructed and completed within six months from the date of this order.

H. GUTHRIE,

Chief Commissioner.

Canadian Freight Association Tariff No. 184, C.R.C. No. 329, naming car demurrage charges on bulk grain unloaded into public or semi-public terminal elevators at Calgary, Alta., Churchill, Man., Edmonton, Alta., Fort William, Ont., Lethbridge, Alta., Moose Jaw, Sask., New Westminster, B.C., North Vancouver, B.C., Port Arthur, Ont., Prince Rupert, B.C., Saskatoon, Sask., Vancouver, B.C., Victoria, B.C., West Fort William, Ont.

File No. 1700.397

Final Hearing before the Board at Ottawa, on July 14th, 15th, 16th and 17th, 1937.

ORAL JUDGMENT DELIVERED BY THE CHIEF COMMISSIONER

Chief Commissioner:

In the view of myself and my colleagues this matter has now been so fully presented to the Board and so ably argued by counsel that there is no reason for delaying judgment upon the application as it now stands.

This application had its original inception through a tariff filed by the railways in 1927, in which was published a new item as to free time and demurrage charges in respect of cars of grain, made to apply to all elevators at British Columbia coast points. Protests against the tariff were filed with the Board and the matter set down for hearing and, at sittings in Vancouver on October 19th, 1927, the interested parties advised the Board that they had reached an agreement, namely, that the tariff be amended naming the elevators subject to its provisions and which would not include public elevators, and the tariff giving effect thereto was issued. Subsequently, there was a controversy between the Canadian Car Demurrage Bureau and the Midland Pacific Terminal at North Vancouver with respect to the proper interpretation of the provisions of the said tariff and application was made to the Board for a ruling with respect thereto. Upon the hearing of that application the Assistant Chief Commissioner in delivering judgment stated:

"Upon this brief statement of the situation, as summarized from the record here before us, there would seem to be a change in the conditions as existing in 1927 when the tariff was first published and that, under the existing conditions, there is a difference in treatment as between the public and semi-public elevators, with respect to demurrage rules and charges, which creates an unjust discrimination and the onus is upon the railways to either justify the present situation and show conclusively that no undue preference or unjust discrimination exists, or, failing this to either cancel the present tariff provisions or review the whole situation and submit whatever demurrage rules and charges they deem appropriate and proper to be applicable alike to all elevators (semi-public, public or terminal) throughout Canada, which are operating under substantially similar circumstances and conditions. A reasonable length of time, say sixty days, may be permitted the railways for this purpose."

Some conferences were held after the above judgment was pronounced and, subsequently, a new special tariff imposing car demurrage charges on bulk grain was issued by the railways or the Canadian Freight Association on May 20th, 1937, to become effective on September 1st, 1937.

Car demurrage upon all commodities was permitted by the Board in 1906 and revised in 1917. Under these orders demurrage was chargeable on all commodities, including bulk grain at terminal elevators. The only exception I

note in the Tariff then filed is in respect of the portion of Canada, Port Arthur and west in which the Canada Grain Act applies, in which only 24 hours free time was allowed for loading grain during the months of September, October and November. This special provision applied only to loading grain in Western Canada. In all other cases those demurrage rules permit 48 hours free time, and provide that thereafter for the first day or fraction thereof there should be a demurrage charge of one dollar; and for the second day one dollar, and for the third day and each succeeding day five dollars. The special demurrage tariff filed in May last, with which we are dealing to-day, provides for 48 hours free time, and after that one dollar for the first day or fraction thereof, one dollar for the second day, \$2 for the third day and \$3 for the fourth and each succeeding day. This tariff purports to apply to all grain at semi-public and public terminals in western Canada. It does not apply to the terminals in eastern Canada.

When I first considered the matter I was inclined to think that the question of unjust discrimination would certainly arise as between eastern and western terminals. Mr. Green at Winnipeg addressed a very able argument to the Board upon that point and I am inclined to agree with the view expressed by him, namely, that no unjust discrimination as between western and eastern terminals would be created under this tariff, as there is a well recognized distinction in our legislation and also in our transportation methods as between eastern and western terminals in respect of grain transport. I do not think I need say anything further upon this aspect of the matter.

The matter has now been very fully placed before the Board. This inquiry was started in Vancouver and continued by the Board at Winnipeg, Port Arthur, and again here in Ottawa. I think all the relevant facts and circumstances have been fully placed before the Board. There has been a mass of statistical evidence adduced. I have read most of it over many times, and all of it at least once. There is this to be remarked in regard to the statistics filed by the various parties, that while there are some marked discrepancies and not a few inaccuracies in the statistical exhibits, I think on the whole they give a fair presentation of the situation as it has actually existed both at the head of the lakes and at Vancouver during the last ten years in regard to the movement of cars, the accumulation of cars, and the time occupied in unloading. Many of the discrepancies in this statistical evidence may, I think, be accounted for by the fact that the figures relate to different periods of time. In the case of most terminal elevators the statistics seem to have been compiled at the cut-off period, about 3 or 4 o'clock in the afternoon of each day; at 11 o'clock in the forenoon in the case of the United Grain Co. Terminal, while the railway statistics seem in the majority of cases to have been compiled each day at midnight. There would be considerable overlapping in the figures submitted due solely to this difference in time.

But I do not think these discrepancies are serious. Nor do they in my judgment affect the general impression left upon my mind, and I think also upon the minds of my colleagues in respect of the situation which has actually existed at the head of the lakes and at Vancouver for a long period of time. We recognize that the railways do at certain seasons suffer some disadvantage from delay in unloading cars at the terminal points. But we also recognize that the whole problem of grain production and grain transportation in western Canada involves some element of uncertainty and of hazard to all parties concerned therein. That feature of the problem has been well elaborated before the Board during the three days' hearing in Ottawa. In the opinion of the Board there must be at all times the closest co-operation between all parties concerned in the transportation of the western crop, if the best results are to be achieved. It is gratifying to find, according to the evidence, that co-operation between shippers, railways and terminals has, even during periods of greatest congestion, been all that could be desired.

Take the case of the terminal elevators at the head of the lakes. I think Canada and Canadians are proud of the fact that such elevators exist. Everything that science can suggest or that money can supply seems to have been utilized upon these terminals, with the result that we have both at the head of the lakes and at Vancouver perhaps the most expeditious and economical handling of grain to be found anywhere in the world. The railways have done their part, and have done it well. And the producers in western Canada have certainly in past years done their part. According to the evidence there has been a very excellent measure of co-operation. There may have been occasional friction but there has not been any serious cause for friction, apart from the necessary delay in unloading cars during periods of great congestion. It is now proposed by the railways to remedy this delay in unloading by the imposition of a demurrage charge, which charge the railways might have imposed upon terminal elevators throughout many years, but up to the present time the railways have refrained from imposing demurrage upon terminal elevators. The original demurrage order applied to all merchandise transported by railway but was never applied to terminal elevators. The present tariff seeks to make the demurrage charge applicable to such elevators for the first time.

The railways candidly state that they do not seek to impose this charge as a matter of revenue, but purely as a penalty, in the expectation that it may result in speedier return to them of the unloaded cars. The object of the railways in this respect is very reasonable and very laudable. Railways have a very large amount invested in equipment, and if cars are standing idle, earning nothing, it is a serious loss to the railway companies.

However, the Board feels that to a very large extent the railways have the remedy in their own hands. But before discussing that feature of the matter might I make an observation as to the nature of the remedy proposed. The railways ask for the imposition of a penalty by way of demurrage charge. In the first instance, the penalty will be imposed upon the terminals, but in the final analysis it will be paid by the producer of the grain. Any penalty which may be imposed upon the terminal elevator for delay in unloading will be at once remitted back to the shipper and to the producer. Of this result we have been assured by the operators of terminals both at Vancouver and at Port Arthur. Would it be right, fair or reasonable to impose a penalty which would ultimately have to be paid by the farmer who produced the grain, while at the same time it is to be remarked that the producer is the one party who is absolutely without blame for any delay in unloading the car which happens to be carrying his grain. The farmer produces his crop and loads it upon the car. He has no further control of the car. His responsibility is at an end. The railway accepts this car for transportation to a terminal point, consigned to a particular terminal elevator. The railway has fairly accurate information at the time of shipment as to conditions likely to prevail at the terminal point when that car is due to arrive. The farmer desires his car to be taken to the elevator with all reasonable speed. As soon as the grain goes into the elevator he will be bound to pay storage upon it. Until the grain actually enters the elevator the elevator company receives no storage charge. It is to the interests of the elevator to unload that car without delay. However from time to time there do come periods of congestion both at the head of the lakes and in British Columbia when some delay is unavoidable in the unloading of grain cars as rapidly as they arrive. In the opinion of the Board such delays are incident to the problem of grain transportation in western Canada whenever the country is blessed with an abundant harvest. We do not consider that the imposition of a penalty by way of demurrage under such circumstances would relieve the situation to any appreciable extent, nor do we think that it would be fair or reasonable to penalize the producer under such circumstances when he is in no way to blame in the matter.

The transportation of western grain differs in many respects from the transportation of other commercial commodities. I think that the Parliament of Canada so views it. The Parliament of Canada has passed the Canada Grain Act dealing very minutely with the transportation of grain. Parliament has not passed such similar acts in regard to the transportation of other commodities, so far as I am aware. Parliament has given the Board of Grain Commissioners some very broad and general powers in regard to the distribution of cars for the transportation of grain. Sec. 15, ss. W of the Canada Grain Act provides that the grain commissioners may pass regulations specifying the mode in which applications shall be made for the placing of cars at terminal elevators to receive shipments of grain therefrom, and governing the distribution of cars to terminal elevators for the purpose of such shipments. Sections (k) and (l) also apply to the distribution of cars. I do not know whether the Board of Grain Commissioners has passed any regulation in respect of these matters, nor do I know that any application has ever been made to them by the railways or by others to do so. But there is a remedy provided, if anyone seeks to employ it, either the railways or the terminal elevators may ask the Grain Commissioners to regulate the distribution of cars to terminal elevators to remedy as far as possible congestion such as occurred in connection with the crop of 1928.

There are other features that should also be considered. Many years ago, in 1911, the railways came to this Board and asked the Board to alter the terms of the bill of lading in regard to shipments of grain. Why? Because they said there were times when shipments were billed to elevators which were full and so could not take the grain. They asked that a new clause, No. 8, be inserted in the bill of lading to give them power to divert that grain to elevators that could take it in. And that power was given them. That provision still appears as sec. 8 in grain bills of lading. But the railways do not seem to have taken advantage of that privilege. They may have caused the diversion of grain in some cases, but I gather from the evidence that such diversion has only been resorted to upon rare occasions. The railways seem to fear that if they avail themselves of the privilege granted to them under sec. 8 they might incur the displeasure of certain elevators and in the future their business might be adversely affected.

I grant that the railways should be careful not to give offence to shippers. It is to the railways' interest to give every reasonable consideration to shippers, and for the shippers to co-operate in every way with the railways. It may be that clause 8 of the bill of lading has not given the railways the relief which they anticipated from it, but they have not tried to apply it except in a very limited manner. If they did so, it might relieve a great deal of the congestion and consequent delay in the unloading and return of grain cars.

The railways have also the right to place embargoes, and the right to grant permits for the loading of grain. Or, as was suggested by the representative of the United Grain Growers, they might adopt the system of restricted loadings at seasons when there is a great rush of grain or great congestion at terminal points. I gather from letters which were sent to this Board by representatives of both railways in 1930 that in 1930 those representatives considered that the railways had in their own hands adequate means to handle any difficulty in the way of congestion or delay in returning cars. When I read those letters I felt that the railways possessed reasonable power for avoiding any serious difficulty at congested points.

Now Mr. Green argues very forcibly on behalf of the railways that conditions have changed since 1930, and while the conditions described in those two letters may have existed in 1930 similar conditions do not prevail now. He bases his argument mainly upon the fact that the number of cars available for the movement of grain has substantially decreased since 1930. The figures show, he says, that in 1930 there were 67,000 cars available, and that now that number

has been reduced by 15 per cent. There is another tabulation which shows that the percentage of decrease in car units is about 17 per cent, but since 1930 there has been an increase in the size and capacity of these cars leaving a net decrease in carrying capacity of 5.8 per cent. On the other hand it must be borne in mind that there has been such a tremendous decrease in the yield of grain for transport from the West that I should not think the car shortage would prove very serious. There has been a decrease of 60 per cent or more in the production of grain, if we may judge by newspaper reports. I read a day or two ago that while there is a carry-over of 35 to 40 million bushels there will not be this year more than 150 million bushels of new crop. We have had in this country as much as 550 million bushels in a single year, and if this year we are so unfortunate as to have only 150 million bushels of new crop, surely the railways have cars enough to transport that quantity without serious strain. The figures submitted this morning by Mr. McPherson were new to me. They show that in the heavy years of 1927-1928-1929 the total of cars at the head of the lakes was 295,000 whereas last year there was a total of 116,000, the year before 110,000, and in 1934, 107,000. With the crop prospects of the present year, which we all deplore, I am afraid the railways will not be much strained to find cars to accommodate all the grain that is offered for shipment.

I cannot refrain from repeating that I think we should consider the question of western grain transportation as distinct from the transport of other commodities. While the principle underlying the application of a demurrage charge is sound in respect to rail transportation in general, and should be applied where cars are unreasonably or improperly detained by shippers or by consignees, in my opinion an exception should be made in regard to western grain at terminal points. Parliament seems to have recognized a distinction as between western grain and other transportable commodities not only in the Canada Grain Act, but also in regard to railway rates for the transportation of grain. While ordinary freight rates are subject to the jurisdiction of the Board under the provisions of the various sections of the Railway Act, Parliament itself enacted maximum rates for the transportation by rail of western grain to the head of the lakes. Subsequently, the Board made the same scale of rates effective for shipment of western grain via Pacific ports. I am not aware of similar action by Parliament in respect of any other commodity. I think, therefore, that one may well hold that shipments of grain to terminal elevators may be treated as an exception to the general demurrage tariff. For many years the railways have so treated it, and I can find no sound reason at the present time for altering the method adopted by the railways in the past.

There exists strong ground for the statement that the transport of western grain is of so great consequence to this country, its expeditious and efficient and economical handling is of so great consequence, that the whole problem will for many years constitute a national problem.

In the view of myself and my colleagues, the application of this tariff to bulk grain at terminal points would be unjust and unreasonable. These are the words employed in sec. 325 of the Railway Act. I do not desire to leave the impression that what seems unjust and unreasonable to-day might seem so a year or two years hence under other conditions. But certainly under conditions as they exist to-day we think it would be unjust and unreasonable to impose this demurrage charge as asked for in this tariff. Such a charge would be reflected back upon the producer. It might be a small and unimportant amount in dollars and cents, indeed the individual producer might not realize that he was bearing demurrage charges. But the news would spread that a new burden had been placed upon the grain producer, that new rail charges had been imposed upon the western farmer, who has had a hard enough time in recent years. I do not think Mr. McPherson over-painted the picture of farm conditions in the west to-day. During recent years the railways have suffered tremendously on account

of the prevailing depression. So has every industry in Canada, but perhaps the greatest sufferers have been the farmers in the West.

Under all these conditions, and following the precedent established by the Board in a large number of cases, the Board thinks this tariff should be disallowed. It was argued by counsel for the railways that under the provisions of the Railway Act we could not disallow a tariff without submitting a new one. However we have acted so in a number of cases. This tariff must be disallowed as unjust and unreasonable. If in the future the railways desire to bring the matter up again, under new conditions, when the situation has changed or improved, the Board will be glad to hear all that is urged, and the evidence now submitted will be preserved and may be very useful on a subsequent occasion.

An order will issue for the disallowance of the tariff.

ORDER No. 54627

In the matter of Canadian Freight Association (Western Lines) Special Tariff 184, C.R.C. No. 329, issued May 20, 1937, to be effective September 1, 1937, naming car demurrage charges on bulk grain unloaded into public or semi-public terminal elevators in Western Canada.

File No. 1700.397

FRIDAY, the 30th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing representations made with respect thereto at the sittings of the Board held at Vancouver, June 7, 1937; Calgary, June 19, 1937; Regina, June 23, 1937; Winnipeg, June 25 and 26, 1937; Port Arthur, June 28, 1937; and Ottawa, July 14, 15, 16, and 17, 1937, by Counsel for and representatives of the Canadian Pacific Railway Company, Canadian National Railways, Vancouver Harbour Commissioners, Vancouver Board of Trade, Pacific Elevators Limited and various coastal elevators, Saskatchewan and Manitoba pool elevators, North West Grain Dealers, and the United Grain Growers,—

It is ordered: That Canadian Freight Association (Western Lines) Special Tariff 184, C.R.C. No. 329, be, and it is hereby, disallowed.

H. GUTHRIE,

Chief Commissioner.

Application of the Department of Interior, National Parks of Canada, Ottawa, Ontario, for an Order authorizing the re-location of the existing crossing of the Calgary-Banff Highway over Canadian Pacific Railway Main Line at Anthracite, Alberta, Mileage 77.47, at a point 400 feet West thereof, and the installation of wig-wags.

(File No. 31189)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This application was made by the National Parks of Canada, Department of the Interior, for re-location of the present crossing of the Calgary-Banff Highway over the main line of the Canadian Pacific Railway Company at Anthracite, Alberta, Mileage 77.47; and also for the installation of wig-wags at the proposed crossing.

The application was heard at Banff on 15th June, 1937, in the presence of a representative of the National Parks of Canada and the Chief Engineer of the Department of Highways, also in the presence of counsel for the Town of Banff and the Canadian Pacific Railway Company and in the presence of Mr. D. M. Soole, a resident of Banff and a property owner at Anthracite, who appeared for those opposing the application.

Anthracite is a station on the main line of the Canadian Pacific Railway, four and a half miles east of Banff. At the present time Anthracite is merely a hamlet, although immediately in its vicinity there is said to be a valuable coal mining property which is being worked at the present time upon a very small scale. The present production of this mining property only amounts to a few tons of coal per day. Immediately to the west of the station, the Calgary-Banff Highway crosses the railway and in order to make this crossing the highway makes a right angle turn a short distance upon the north side of the track, and another right angle turn immediately south of the track. For the purpose of avoiding these right angle turns at the crossing, and to improve the alignment of the highway, the Applicant proposes to divert the present roadway so that it will cross the railway upon a 60-degree curve, about 400 feet west of the present crossing. The present crossing is over two lines of track, namely the main line and a siding, and the proposed crossing will cross only the main line track. It is also proposed by the Applicant to put in a wig-wag at the new crossing. It is alleged by the Applicant that the proposed diversion will not only benefit the highway but that the construction of the new crossing will greatly improve the sight lines and render the new crossing safer and more satisfactory than the present one.

Counsel for the Town of Banff opposed the application alleging that the present crossing had been in existence for many years and that few, if any, accidents had ever happened upon it. He also asserted that the local car owners and car drivers, who constantly use this highway between Calgary and Banff, are in favour of maintaining the present crossing as they consider it in every way superior to the proposed crossing.

Mr. D. M. Soole presented a numerously signed petition containing the names of some 160 business men in the local community who object to any change being made in the present crossing at Anthracite. The petition sets out the objections urged against the application and these were fully elaborated by Mr. Soole.

The traffic upon the highway over the crossing at Anthracite station is fairly heavy. An estimate was furnished showing that, approximately, 80,000 vehicles had passed over this crossing during the last year. The only actual traffic counts which seem to have been taken were for July 12th and September 7th, 1936. These show that the total traffic over this crossing on July 12th was 1,127, and on September 7th, 1,697. The regular railway traffic over this crossing is not very heavy, but a number of fast trains of the railway company do not stop at Anthracite station. Mr. R. C. Harris, who is an Engineer of the Company in connection with Maintenance of Way and Construction upon this division, stated that at certain busy times of the year as many as a train an hour pass over this crossing; but this is only at seasons of the year when business is heavy.

Mr. McMillan, a truck driver, was called in opposition to the application. He has been driving motor trucks over this crossing for the last seven years. This witness considered that the present crossing was satisfactory and should not be changed. In his opinion, the two right angle turns upon the highway immediately north and south of the crossing tended to prevent drivers approaching the crossing at high speed. He also considered that the sight lines at the present crossing were better than those at the proposed crossing.

Mr. Elmer Charlton also gave evidence opposing the application. He stated that he had driven motors over this highway every day for the past five years

and he considered that the present crossing was superior in every way to the proposed crossing.

Counsel for the Canadian Pacific Railway Company stated that the company had no objection to the new crossing, provided the cost of construction was not assessed against the company, and in a letter to the Board, dated 2nd November, 1936, the company intimated that it was willing to pay one-half of the cost of maintenance of a bell and wig-wag should such protection be established at the new crossing. There is also on file with the Board a letter from Mr. J. B. Harkin, one of the Commissioners of the National Parks of Canada, stating that if the proposed crossing were approved by the Board, the Department of the Interior is prepared to assume responsibility for the cost of construction and maintenance of the crossing.

The Alberta Motor Association filed with the Board a letter dated 14th June, 1937, and stated in that letter that the directors of the Association considered that the proposed change in the crossing at Anthracite would make a very desirable improvement in the alignment of the highway in the approach to the railway crossing from both north and south. This Association also approved of the erection of a wig-wag at the new crossing. This letter further stated that the directors of the Association felt it to be their duty in the interests of the travelling public to advise the Board of their conclusions after making investigation into the matter, and desired that the proposed changes in this crossing be brought into effect. The formal resolution of the directors of the Association was sent forward to the Board. It is as follows:—

“RESOLVED that the change in the Calgary-Banff Highway at the railway crossing near Anthracite Hill as proposed by the Engineering Department of the Canadian National Parks be approved and that representations be made to the Board of Railway Commissioners in support at its Sitzings in Banff on Tuesday, the 15th day of June, 1937.”

The Brewster Transport Company is a company operating about seventy-five motor cars and trucks and uses this highway to a large extent. The Brewster Transport Company sent a letter to the Board from which I quote the following:—

“I understand the Board of Railway Commissioners will be sitting here the first of the week, and that the above matter is coming up for discussion, and this is to advise you that in my opinion it would be a great improvement if the new scheme which your department have for changing the road was carried out. I think that the idea of a ding-dong system, and the straightening of the present road, which provides for the crossing some distance west of the present one, thus eliminating the necessity of crossing the passing track as well as the main line, would be a distinct advantage.”

After the hearing, the Commissioners visited Anthracite station, in order to obtain a view of the situation as it existed upon the ground. Upon consideration of the matter as placed before the Board and after obtaining a good idea of the actual conditions from an examination of conditions as they exist at both the present and the proposed crossing, in my opinion, this application should be granted. I think the proposed crossing will be a marked improvement upon the existing crossing, particularly in regard to the question of safety for those using the highway. When the diversion of the highway has been carried out and a new crossing established, the sight lines should also be improved by the removal of some small trees and undergrowth upon the west side. This will greatly improve the view approaching the crossing. I think also that a wig-wag should be erected at this crossing, as asked for by the applicant. The cost of constructing the new crossing and of erecting a single wig-wag at the crossing should be placed upon the applicant. The future maintenance of the

crossing including the wig-wag should be borne and paid by the applicant and the Canadian Pacific Railway Company in equal portions. After the new crossing has been established, the present crossing immediately west of Anthracite station should be permanently closed.

July 28, 1937.

Commissioner Stoneman concurred.

ORDER No. 54628

In the matter of the application of the Department of Mines and Resources, National Parks Bureau, hereinafter called the "Applicant," under Section 256 of the Railway Act, for authority to change the location of the existing crossing of the Canadian Pacific Railway on the Calgary-Banff Highway at Anthracite, Alberta, mileage 77.47, and to instal wigwags.

File No. 31189

THURSDAY, the 29th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Banff, Alberta, June 15, 1937, in the presence of Counsel for and representatives of the Applicant, the Department of Highways, the Council of Banff, the Canadian Pacific Railway Company, and certain property owners affected, and what was alleged; and upon an examination by the Board of the *locus in quo*,—

It is ordered:

1. That the Applicant be, and it is hereby, authorized to change the location of the existing crossing of the Canadian Pacific Railway on the Calgary-Banff Highway at Anthracite, Alberta, to a point 400 feet west thereof at mileage 77.47 of the main line, as shown on plan and profile dated May 20, 1936, on file with the Board under file No. 31189; the proposed crossing to be constructed in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

2. That, when the proposed diversion of the highway has been carried out and the new crossing established, the sight lines be improved by removing some small trees and undergrowth upon the west side of the crossing; and the existing crossing, authorized under Order No. 31553, dated September 14, 1921, be closed within the limits of the railway right of way.

3. That, within ninety days from the completion of the new crossing, the Canadian Pacific Railway Company instal a bell and wigwag in accordance with the Standard Regulations for Highway Crossing Signals, approved under General Order No. 468, dated 12th March, 1929, as amended by General Orders Nos. 521 and 553, dated respectively 2nd November, 1933, and 26th March, 1936; a detail plan showing the layout thereof to be submitted for the approval of an Engineer of the Board.

4. That the cost of constructing the new crossing and of installing the said bell and wigwag be borne and paid by the Applicant; and that the future maintenance of the crossing, including the bell and wigwag, be borne and paid by the Applicant and the Canadian Pacific Railway Company in equal portions.

H. GUTHRIE,

Chief Commissioner.

In re Demurrage Charges incurred on account of Strike Conditions

File No. 1700.400

RULING

By the Board:

During recent months, there have been a great many strikes at various points in Canada and, in some cases, there has been submitted to the Board the question of affording relief from demurrage charges incurred on account of strike conditions.

When the railways suffer through strikes, wrecks, washouts, or other circumstances, they do not, and cannot, ask the shipping public to afford them relief for the monetary loss with which they have been saddled. The demurrage charge is part of the expense saddled upon shippers by a strike.

Of course, the demurrage toll was never intended as a source of revenue, but as a penalty to effect the prompt loading and unloading of cars. It may be urged, therefore, that the penalty should be imposed only when it is possible for the shippers or consignees to load and unload cars, but fail to do so, and when the cars have not been deliberately delayed or used for storage, but, on the other hand, the delay is occasioned by reason of unforeseen circumstances or conditions beyond their control, relief from demurrage should be afforded. If delays incurred through strike conditions were to be considered under this category, it would have a very far-reaching effect, because, unless the same consideration were extended to all other cases where delays might be occasioned through causes which would fall under the same broad general heading, it would seem that a discriminatory condition would be created. To extend consideration to all such cases as might fall under the general heading referred to would have a tremendously far-reaching effect and would, it seems to us, tend to largely nullify the entire demurrage rules, as there are a surprisingly large number of cases where the delay is alleged to be caused through unforeseen circumstances or uncontrollable conditions. To mention only a few, fires within a plant, a breakdown of machinery, financial difficulties, cheques, delivery instructions or other documents gone astray in the mails, or somewhere in transmission, might be cited, but many other examples could be given. In Volume 7, Board's Judgments and Orders, page 342, Volume 12, page 37, Volume 13, page 251 and Volume 14, page 1, will be found cases of this character which were before the Board and the Board stated that it could afford no redress. In the case last mentioned, the Board stated:—

“These rules are of general application and, as applied to some individual cases and, apparently, in the present instance, may seem to work a hardship. There is no provision in the rules entitling the applicant company to a refund. To consider this case an exceptional one and ignore the legal status under the provisions of the rules, would, aside from its illegality, be an injustice to and a discrimination against many others whose applications have been declined. In many instances, demurrage accrues through unforeseen, and in some instances unavoidable causes, but under conditions that the rules do not provide exemption for. See Hedstrom and Canadian Car Demurrage Bureau, Vol. XII, p. 37, Board's Printed Judgments, Orders, Regulations and Rulings.”

The demurrage rules have never contained a provision for allowances to be made under circumstances such as here referred to and, upon careful consideration of the whole question, we do not consider such a provision should be incorporated therein and the Board does not consider it can afford any redress in such cases.

While in no way influencing our decision in the matter, it may be stated that the Interstate Commerce Commission has had this question before it in many

instances with respect to strikes within the United States and has, we understand, uniformly held that strikes which prevent shippers from loading or unloading cars afford no basis for relief from demurrage charges.

OTTAWA, Ontario,
July 30, 1937.

Complaint of The Imperial Coal and Coke Company, et al, regarding Rates on Bituminous Coal and Coke, Carloads, Detroit, Michigan, to Chatham, Ontario.

File No. 26974.22

JUDGMENT

By the Board:

This matter has been placed before us and developed by the written submissions of the complainants and the Canadian Freight Association (on behalf of the railways) and complainants desire it disposed of upon such submissions. All rates quoted herein are in dollars and cents per net ton.

The present rates from Detroit to the points referred to in the complaint are as follows:—

To	Bituminous Coal	Coke
Chatham	\$1 00	\$1 50
St. Thomas	1 10	1 50
London	1 10	1 50

Complainants state they feel they are discriminated against by the railways in the matter of rates on bituminous coal and coke from Detroit to Chatham. They state that to St. Thomas, 65 miles further from Detroit than Chatham, the rates from Detroit are identical with those to Chatham. It will be observed from the rate tabulation above that this statement is incorrect with respect to the bituminous coal rates, the rate to Chatham being \$1 and to St. Thomas \$1.10. Complainants point out that to the other points, namely, St. Thomas and London, the railways have established reduced rates to meet competition, but this has not been done to Chatham, although the water rate from Detroit to Chatham is 90 cents on coke and 65 cents on bituminous coal. They state that it would be of advantage, both to the consumer and the merchant, to have the coal brought in by rail, as, when delivered by rail, it arrives at destination in much better condition and is promptly placed under cover where it can be kept dry and safe from marauders, whereas, in unloading from a boat, it is usually dumped on a dock exposed to all kinds of weather and the depredation of thieves. Complainants state they recognize there should be some spread between the water rate and the rail rate, but submit that the present spread is entirely out of proportion and suggest rates from Detroit to Chatham of \$1 on coke and 75 cents on bituminous coal, stating they feel that the difference would be more than made up in increased business to the railways, and they state that to London the rate on bituminous coal is only 10 cents higher than to Chatham and there is no direct water competition to London for which a competitive rate might be justified.

With respect to the rates on bituminous coal from Detroit to Chatham, London and St. Thomas, the Canadian Freight Association states:—

“The rates and groupings on coal were originally prescribed by the Board in the so-called Eastern Rates Case, Volume 6 of the Board's Judgments, Orders, Regulations and Rulings, at page 185. There has been

no change made by the railways in these groupings, and the only changes in the rates have been made in accordance with subsequent orders of the Board prescribing general increases or reductions.

So far as competition with movements reaching Chatham by water are concerned, the Board has ruled in many cases that it is within the discretion of the railways as to whether they shall or shall not meet competition. The railways have not considered it advisable or necessary to meet water competition at Chatham, Ont., nor have they met it on coal to London or St. Thomas, which, of course, is a complete answer to the complaint in respect of coal.

However, for the information of the Board and the applicants, the reason for the railways not attempting to meet water competition at Chatham is the fact that no rail rate that might be established from Detroit could possibly meet the competitive situation. The bituminous coal received at Chatham and sold by the complainants is principally for domestic use, that is, in private homes and public buildings; and generally, is not for industrial purposes. This coal originates in West Virginia or Kentucky and the following is the combination rate by rail and water:—

	Per net ton
Proportional rail rate from West Virginia or Kentucky to Toledo for furtherance by water.....	\$1 81
Dumping charge at Toledo	08
Water rate from Toledo to Chatham..... (x)	65
Total	<hr/> \$2 54

(x) Note that this rate, quoted by the complainants, appears to be excessive; we are advised that the maximum rate would be about 50 cents per ton.

There is no proportional rate on coal for furtherance via Detroit and the following is the combination all rail:

Rail rate from West Virginia or Kentucky to Detroit.....	\$2 60
Present rail rate from Detroit to Chatham.....	1 00
	<hr/> \$3 60

It will be seen from the above that the railways could not possibly make any reduction from Detroit that would enable them to compete with the rail and water rate through Toledo.

As a matter of fact, there is a substantial movement by rail at the present time, and we are not convinced that any reduction in the rate would result in any more traffic, but would simply deplete the revenue on such coal as is moving by rail at the present time."

The statement in the first paragraph above quoted is correct. The present rates are on the basis prescribed by the Board. Lower competitive rates have not been established to any of these points. Nothing has been advanced on the record before us to justify directing any changes in the rates and groupings already thoroughly considered and fixed by the Board with respect to bituminous coal shipments from Detroit.

So far as concerns coke from Detroit, the rates prescribed by the Board in the Eastern Rates Case, *supra*, with subsequent modifications authorized therein, are, to Chatham, \$1.50 and, to London and St. Thomas, \$1.80. To the two points last named the railways have established competitive rates of \$1.50.

which are stated to be water-truck competitive (via Port Stanley) and, at present, shown to expire November 30, 1937. The coke is produced at Detroit by the Semet Solvay Company, located on the Delray Connecting Railway, and the Ford Motor Company at its Rouge River plant, served by the Wabash Railway. There are four railways concerned with the movement of coke from Detroit to Chatham, namely, the Canadian Pacific Railway, the Canadian National Railways, the Pere Marquette Railway and the Wabash Railway. It is stated that all these railways are required to make absorption of expensive and varying terminal costs at Detroit out of the published rate, except in the case of the Wabash Railway with respect to the Ford plant. From the data submitted by the Canadian Freight Association, it appears that the absorptions required to be made by the Canadian National Railways are the heaviest, namely, from the Ford plant \$16.99 per car and from the Semet Solvay plant \$19.97 per car, and that the absorptions by the other railways would be less, although the actual figures were not given. The Canadian Freight Association further states that, in addition to the above, the revenues of the Canadian carriers would be further depleted to the extent of the per diem charge accruing to the owner for the use of foreign cars while on Canadian railways, as, generally, this coke is loaded in foreign equipment, that, as coke loads only from 25 to 30 tons per car, a large portion of the \$1 rate suggested by complainant would be absorbed in terminal and per diem charges and the suggested rate would not be a remunerative one to the Canadian carriers. It is further stated:—

“Apart from all of the foregoing facts, however, the situation is that the only coke that the rails might handle to Chatham would be during an emergency period when severe weather conditions prevail, otherwise the shipments would normally move either by water or by truck.”

The Railway Act contains express provision enabling railways to establish competitive rates and, in this connection, the Board has repeatedly held that, subject to the provisions of the Act regarding discrimination, it is within the discretion of railway companies to meet water or water and truck competition, but that they are not compelled to put in, or maintain, rates to meet such competition. Upon the question of discrimination, the interpretation of the Act in this respect and the position taken by the Board has been set out in a great many of its decisions. The Railway Act authorizes discrimination and prohibits only undue, unfair, or unjust discrimination. A mere comparison of distance without consideration of the particular circumstances affecting the traffic is not a final criterion of discrimination. The Board has stated:—

“In dealing with the question of discrimination, the matter of detriment, if any, to which the applicant is subjected by the alleged unjust discrimination or undue preference must be considered. A difference in rates is discrimination; but the prohibitions of the Railway Act in regard to discrimination are prohibitions of unjust discrimination or undue preference and the question is whether the discrimination amounts to an unjust discrimination or undue preference. One criterion of unjust discrimination is whether the district alleged to be discriminated in favour of has profited at the expense of the locality against which it is alleged the discrimination has taken place.”

In another case, the Board stated:—

“No evidence was submitted that any rate advantage possessed by any competitor had rendered it more difficult for the applicant company to do business and the allegation of unjust discrimination was held to be unfounded.”

The rates on coke to the three points referred to are the same and complainants have not alleged that the dealers at St. Thomas or London are invading, or can invade, the market of the Chatham dealer.

Upon what is before us, it is not shown that the rates are unreasonable *per se*, or unjustly discriminatory, consequently, the complaint must be dismissed.

OTTAWA, Ontario, July 30, 1937.

ORDER No. 54626

In the matter of the complaint of the Imperial Coal and Coke Company, Sarvice Limited, J. Terry & Sons, and R. S. Crow & Company regarding the rates on bituminous coal and coke, carloads, from Detroit, Michigan, to Chatham, Ontario.

File No. 26974.22

TUESDAY, the 3rd day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon reading what has been filed on behalf of the complainants and the Canadian Freight Association,—

It is ordered: That the complaint be, and it is hereby, dismissed.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 54565

In the matter of the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company," for permission to file, on less than statutory notice, a supplement to its Tariff C.R.C. No. E-4817 to correct an error.

File No. 27612.159

WEDNESDAY, the 21st day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon its appearing that when the said tariff was published the necessity of restricting the application of the competitive rates to Fredericton, St. Andrews, and St. Stephen, New Brunswick, so as to prevent their application to intermediate points was overlooked; and upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered: That the applicant company be, and it is hereby, permitted to issue a supplement to its Tariff C.R.C. No. E-4817, publishing rates on petroleum products from Saint John, New Brunswick, and restrict the rates to Fredericton, St. Andrews, and St. Stephen, New Brunswick, so that they will not apply to intermediate points, effective on three days' notice.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54568

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.2

TUESDAY, the 20th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 63	to	Tariff C.R.C. No. E-1244
" 8	"	" " E-1543
" 30	"	" " E-1737
" 35	"	" " E-1906
" 6	"	" " E-2311
" 9	"	" " E-2448
" 13	"	" " E-2564
" 14	"	" " E-2564

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54569

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.13

TUESDAY, the 20th day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1050, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1050, approved herein, are as follows:—

Item		Cents per 100 pounds
5	To Windsor, N.S.	14 $\frac{1}{2}$
	Dimock's, N.S.	14 $\frac{1}{2}$
	Wolfville, N.S.	16 $\frac{1}{2}$
	Kentville, N.S.	16 $\frac{1}{2}$
10	To Berwick, N.S.	18
	Middleton, N.S.	18
	Bridgetown, N.S.	19
	Annapolis, N.S.	19
15	To Bear River, N.S.	19 $\frac{1}{2}$
	Digby, N.S.	19 $\frac{1}{2}$
	Weymouth, N.S.	20 $\frac{1}{2}$
	Yarmouth, N.S.	20 $\frac{1}{2}$
20		19 $\frac{1}{2}$

Item		Cents per 100 pounds
25	To Kennetcook, N.S.	18½
	Falmouth, N.S.	15½
	Bear River, N.S.	18½
	Digby, N.S.	18½
	Weymouth, N.S.	18½
	Yarmouth, N.S.	15½
30	To Middleton, N.S.	11
	Yarmouth, N.S.	8½
35	To Windsor, N.S.	18
	Wolfville, N.S.	
	Kentville, N.S.	
	Canning, N.S.	
	Kingsport, N.S.	
40	To Berwick, N.S.	22
	Middleton, N.S.	
	Bridgetown, N.S.	
	Annapolis, N.S.	
	Digby, N.S.	
45	To Weymouth, N.S.	24
	Meteghan, N.S.	
	Yarmouth, N.S.	

50 Fourth class rates or commodity rates (as maxima) as covered by order or orders.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54579

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.13

THURSDAY, the 22nd day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Supplement No. 1 to Tariff C.R.C. No. 1050, to Saulnierville, Nova Scotia, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 1 to Tariff C.R.C. No. 1050 to Saulnierville, Nova Scotia, approved herein, is 18½ cents per 100 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54591

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

THURSDAY, the 22nd day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. E-4817, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. E-4817, approved herein, are as follows:—

To	Cents per 100 pounds
Canterbury, N.B.	24
Chipman, N.B.	24 $\frac{1}{2}$
Edmundston, N.B.	29 $\frac{1}{2}$
Florenceville, N.B.	25 $\frac{1}{2}$
Fredericton, N.B.	15
Grand Falls, N.B.	27 $\frac{1}{2}$
Hartland, N.B.	25 $\frac{1}{2}$
Harvey, N.B.	19 $\frac{1}{2}$
Lepreaux, N.B.	13
McAdam, N.B.	20
Minto, N.B.	24 $\frac{1}{2}$
Otis, N.B.	24 $\frac{1}{2}$
Perth Jct., N.B.	27
Plaster Rock, N.B.	27 $\frac{1}{2}$
St. Andrews, N.B.	15 $\frac{1}{2}$
St. George, N.B.	17
St. Stephen, N.B.	15 $\frac{1}{2}$
Stickney, N.B.	25 $\frac{1}{2}$
Welsford, N.B.	12 $\frac{1}{2}$
Woodstock, N.B.	25 $\frac{1}{2}$

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54594

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.14

THURSDAY, the 22nd day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.**The Board orders:*

1. That the toll published in Tariff C.R.C. No. 759, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 759, approved herein, is 5 cents per 100 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54593

In the matter of the application of the Canadian National Railways for leave to remove the interchange track between their railway and the Canadian Pacific Railway at Dunshalt, Alberta, installed under the Order of the Board No. 27763, dated October 12, 1918.

File No. 21181

SATURDAY, the 24th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon reading what is filed in support of the application, and the consent of the Canadian Pacific Railway Company, filed; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered:

1. That the Canadian National Railways be, and they are hereby, authorized to remove the said interchange track at Dunshalt, in the province of Alberta.

2. That orders numbered 27170, 27763, and 28043, dated respectively April 30, 1918, October 12, 1918, and January 16, 1919, made herein, be, and they are hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54607

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 28th day of July, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 9 to Tariff C.R.C. No. E-1543.

Supplement No. 34 to Tariff C.R.C. No. E-1974.

Supplement No. 15 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54633

In the matter of the application of the Express Traffic Association of Canada, on behalf of express companies subject to the jurisdiction of the Board, for approval of proposed Supplement No. 21 to Tariff C.R.C. No. E.T. 694, and Supplement No. 6 to Tariff C.R.C. No. E.T. 700, covering amendments to the Regulations for the Transportation by Express of acids, inflammables, oxidizing substances, and samples of explosives, on file with the Board.

File No. 1717.12

TUESDAY, the 3rd day of August, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon reading what is filed in support of the application and the consents on behalf of the Bureau of Explosives, the Montreal and Toronto Boards of Trade, and the Canadian Manufacturers' Association; and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the said Supplement No. 21 to Tariff C.R.C. No. E.T. 694 and Supplement No. 6 to Tariff C.R.C. No. E.T. 700, covering amendments to the Regulations for the Transportation by Express of acids, inflammables, oxidizing substances, and samples of explosives, on file with the Board under file No. 1717.12, be, and they are hereby, approved.

S. J. McLEAN,

Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

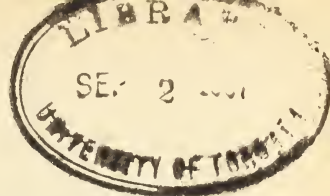
- 54500. July 2—Declaring the C.P.R. crossing north of Alliston Station protected to Board's satisfaction.
- 54501. July 2—Authorizing the C.N.R. to operate under highway bridge constructed over the railway at mileage 117.5 Harte Subdv., Manitoba.
- 54502. July 2—Authorizing the City of Fort William to construct its single-track street railway across the C.N.R. Mission spur.
- 54503. July 3—Extending time for making application for leave to appeal until August 1, in the matter of Order No. 54321 dated May 19 directing the C.N.R. to reimburse certain public utilities for expenditure incurred *re* Montreal Terminal project.
- 54504. July 3—Directing the C.N.R. to install double bells and wigwags at third crossing north of Gravenhurst Station, Ont.
- 54505. July 3—Approving clearances of proposed roof over Dominion Bedding Company's siding at Hochelaga, Que., subject to certain conditions.
- 54506. July 3—Authorizing the C.N.R. to construct proposed siding across Bath Road, Kingston Township, Ont.
- 54507. July 5—Authorizing the C.P.R. to construct branch line to serve McCurdy Supply Co., Ltd., N.W. $\frac{1}{4}$ Sec. 32, Manitoba.
- 54508. July 5—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 54509. July 6—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, toll published in item of supplement to tariff filed by the C.P.R. under Sec. 9.
- 54510. July 3—Amending Order No. 54248 dated April 30, *re* sight lines at C.N.R. crossing of Port Mouton Road, Liverpool, N.S.
- 54511. July 5—Approving by-law of the Thousand Islands Bridge Authority authorizing the secretary of the company to issue tariffs of tolls.
- 54512. July 5—Approving by-law of the Essex Terminal Railway Co. authorizing the traffic manager of the company to issue tariffs of tolls.
- 54513. July 6—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in items of supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54514. July 6—Authorizing the C.N.R. to reconstruct bridge over Glacier creek, mileage 50.5, Albreda Subdivision, B.C.
- 54515. July 7—Authorizing the Dept. of Highways and Transportation for province of Saskatchewan to construct a highway crossing over the C.N.R. at Railway avenue, townsite of Peebles, Saskatchewan.
- 54516. July 5—Authorizing F. N. Garceau, K.C., Deputy Chief Commissioner of the Board of Railway Commissioners, to report to the Board upon questions
- 54517. or matters arising in connection with application of city of Moncton, N.B.,
- 54518. for reconsideration of certain orders *re* protection at Church St., St. George
- 54519. St., Lutz St., and Queen St., where the C.N.R. cross same.
- 54520. July 7—Approving Traffic Agreement between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the township of Osprey.
- 54521. July 14—Granting leave to the C.N.R. to remove station agent at Everett, Ont., and to appoint a caretaker.
- 54522. July 8—Authorizing the C.N.R. to operate under overhead crossing at Queen St., Bracebridge, Ont.
- 54523. July 7—Dismissing the complaint of C. Mainville, Montreal, against the Bell Telephone Co. charging him on the basis of the business rate for telephone service in his private residence.
- 54524. July 8—Relieving the C.N.R. from maintaining speed restriction at Maitland St. crossing, London, Ont.
- 54525. July 8—Declaring the C.P.R. crossing, second public crossing west of Morden Station, Man., protected to Board's satisfaction.
- 54526. July 8—Authorizing the township of Orillia, Ont., to construct highway crossings at mileage 44.75 Midland Subdv., C.N.R., and mileage 62.43 Port McNicoll Subdv., C.P.R.
- 54527. July 7—Declaring the C.N.R. crossing just north of Blackburn siding, mileage 172.23 Jonquiere Subdv., protected to Board's satisfaction.
- 54528. July 9—Authorizing the Dept. of Roads for Quebec to construct grade level crossing of the Carillon-Grenville line of the C.N.R. at Grenville, Que.
- 54529. July 9—Approving Traffic Agreement between the Bell Telephone Co. and Le Systeme de Telephone Larocque.
- 54530. July 9—Approving Traffic Agreement between the Bell Telephone Co. and La Compagnie Telephonique Lauzon, St. Samuel et Ste. Clothilde de Horton.

- 54531. July 9—Requiring the Brewery Products Ltd., to remove the sheet metal building erected upon the platform at its premises in city of Winnipeg, Man., to a greater distance from the C.N.R. rails.
- 54532. July 12—Authorizing the C.N.R. to issue supplement to Tariff C.R.C. No. W-924 to correct an error.
- 54533. July 10—Approving proposed track and signal alterations of the Toronto Terminals Railway Company's John St. interlocking plant, Toronto, Ont.
- 54534. July 10—Approving plan showing electric interlocker at Leaside, Ont., at the junction between the C.N.R. and the C.P.R. at Donlands, Ont.
- 54535. July 10—Authorizing the C.P.R. to construct a branch line of railway to serve the Lignite Coal Mines, Ltd., and Frank Adams at mileage 152-04 Portal Subdv.
- 54536. July 10—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 54537. July 12—Declaring the C.P.R. crossing about one mile north of Tottenham, Ont., protected to Board's satisfaction.
- 54538. July 12—Declaring the London & Port Stanley Railway crossing one-half mile south of St. Thomas, Ont., protected to Board's satisfaction.
- 54539. July 10—Approving Traffic Agreement between the Bell Telephone Co. and the Le Telephone Local de Garthby.
- 54540. July 12—Approving by-law of the city of Peterborough, Ont., prohibiting the ringing of bells and the blowing of whistles on locomotives or engines within the city limits.
- 54541. July 12—Rescinding Order No. 52280 dated September 26, 1935, *re* crossing of the C.N.R. at mileage 57-8 Tignish Subdv.
- 54542. July 13—Extending time within which work may be commenced to improve sight lines at C.N.R. crossing west of Hadlow Station, Levis, Que.
- 54543. July 12—Authorizing the C.N.R. to cross James St., Hanover, Ont., with proposed spur for Wm. Knechtel & Son, Ltd.
- 54544. July 12—Authorizing the Dept. of Highways for Ontario to construct a highway crossing over the C.N.R. at mileage 1-2 Sudbury Terminal Subdv.
- 54545. July 13—Authorizing the C.N.R. to remove station agent at Fossmill, Ont., and to appoint a caretaker in lieu thereof.
- 54546. July 12—Authorizing the Dept. of Highways for Ontario to construct a highway crossing of the C.P.R. one mile north of Verona, Ont.
- 54547. July 12—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 54548. July 13—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 54549. July 16—Authorizing the city of Regina, Sask., to reopen crossing at 20th avenue, until September 1, 1937.
- 54550. July 14—Declaring the C.N.R. crossing, first east of Lanfine Station, Alta., protected to Board's satisfaction.
- 54551. July 14—Relieving the C.P.R. from maintaining cattle guards at crossings at mileage 56-5 and 65-5 Havelock Subdivision, Ontario.
- 54552. July 15—Relieving the C.P.R. from maintaining cattle guards at highway crossings at mileage 82-8 and 88-2 Sherbrooke Subdv., Quebec.
- 54553. July 14—Relieving the C.P.R. from maintaining cattle guards at highway crossings at mileage 22-58, 23-48, and 24-07 Trois Rivieres Subdv., Quebec.
- 54554. July 13—Authorizing the C.N.R. to construct a highway crossing on the Amos to Val d'Or route, mileage 53-22 from Senneterre, Que.
- 54555. July 15—Relieving the C.P.R. from maintaining cattle guards at highway crossing at mileage 39-6 Ste. Agathe Subdv., and at crossings at mileage 123-45, 123-75, 124-48, 125-22, and 127-14 Quebec Subdv., province of Quebec.
- 54556. July 16—Approving clearance at warehouse of Stanley Steel Co., Ltd., Hamilton, Ont.
- 54557. July 13—Approving supplement to service station application between the Bell Telephone Co. and the Adelaide Telephone Co., Ltd.
- 54558. July 14—Relieving the C.P.R. from maintaining cattle guards at highway crossings at mileage 33-79, 34-61, and 35-65 Montreal and Ottawa Subdv., Ontario.
- 54559. July 16—Authorizing the C.P.R. to construct a branch line to serve the Lake Sulphite Pulp Co. Ltd., at mileage 68-33 Nipigon Subdv., Ont.
- 54560. July 14—Approving traffic agreement between Bell Telephone Co., and Le Syndicat de Telephone Rural de Stoke.
- 54561. July 19—Authorizing the St. Clair Transit Co., to construct Canadian approach to St. Clair River International Bridge across the C.N.Rys. at Point Edward, Ont.
- 54562. July 19—Approving traffic agreement between Bell Telephone Co. and Madame Alma Lemay Milot (Milot Telephone System).

- 54564. July 19—Approving traffic agreement between Bell Telephone Co. and Alexandre Hebert (Telephone de Lotbiniere et Nicolet).
- 54565. July 21—Authorizing C.P.R. to issue supplement to its tariff C.R.C. No. E-4817 publishing rates on petroleum products from Saint John, N.B., and restrict the rates to Fredericton, St. Andrews, and St. Stephen, N.B., so that they will not apply to intermediate points, effective on three days' notice.
- 54566. July 19—Authorizing C.N.Rys. to construct spur to serve Consolidated Fruit Co., Ltd., across Smith street, Yorkton, Sask.
- 54567. July 19—Approving traffic agreement between Bell Telephone Co. and Megantic People's Telephone Co.
- 54568. July 20—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs and supplements filed by C.N.Rys. under Sec. 3.
- 54569. July 20—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs filed by Dominion Atlantic Ry. under Sec. 9.
- 54570. July 17—Authorizing C.P.R. to use and operate bridge No. 129-5, Coquihalla Subdv., B.C.
- 54571. July 17—Authorizing C.N.Rys. to install automatic cut-out for wigwag at crossing of James street, St. Pierre, Que.
- 54572. July 21—Declaring C.N.Rys. crossing, first east of Colborne Station, Ont., protected to Board's satisfaction.
- 54573. July 21—Declaring C.N.Rys. crossing (Ontario Hospital spur), one-quarter mile south of Whitby Station, Ont., protected to Board's satisfaction.
- 54574. July 21—Relieving C.P.R. from maintaining cattle guards at crossing between Lots 22C and 23C, tp. Onslow, Que.
- 54575. July 20—Authorizing C.N.Rys. to operate over crossing of Midland and Coboconk Subdvs. at Lorneville Jct., Ont.
- 54576. July 21—Relieving C.P.R. from maintaining cattle guards at nine crossings on its Havelock Subdv., Ont.
- 54577. July 20—Approving relocation of C.N.Rys. station shelter at Davangus, Que.
- 54578. July 21—Relieving C.P.R. from maintaining cattle guards at three crossings on its North Bay Subdv., tp. Ferris, Ont.
- 54579. July 22—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, toll published in Supp. 1 to Tariff C.R.C. No. 1050 filed by Dominion Atlantic Ry. under Sec. 9.
- 54580. July 22—Approving location and details of C.N.Rys.' combination station and freight shed to be constructed at Milverton, Ont.
- 54581. July 20—Declaring C.N.Rys. crossing of Stover street south, Norwich, Ont., protected to Board's satisfaction.
- 54582. July 23—Authorizing C.N.Rys. to construct highway crossing in lot 1, range 6, tp. Joannes, Ont.
- 54583. July 23—Declaring C.N.Rys. crossing, first west of Fraserville Station, Ont., protected to Board's satisfaction.
- 54584. July 21—Authorizing B.C. Dept. Public Works to construct highway crossing over C.N.Rys. at Copper City, B.C.
- 54585. July 21—Approving by-law of town of Drummondville, Que., prohibiting use of bell and whistle of railway locomotives within the city limits.
- 54586. July 23—Authorizing C.N.Rys. to discontinue Port Union, Ont., as a flag station and to remove the station building.
- 54587. July 21—Refusing application of city of Peterborough, Ont., to open up Rubidge street across C.N.Rys.
- 54588. July 21—Relieving C.P.R. from maintaining cattle guards at ten crossings on its Waltham Subdv., Que.
- 54589. July 30—Extending until December 31, 1937, time within which C.P.R. may construct spur for Coldwater Crushed Stone Co., Ltd., at Medonte, Ont.
- 54590. July 26—Extending until September 1, 1937, time within which Vancouver, Victoria & Eastern Ry. & Nav. Co. shall re-establish train service between the International Boundary and Princeton, B.C.
- 54591. July 22—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs filed by C.P.R. under Sec. 9.
- 54592. July 24—Approving grade level crossing of C.P.R. at mileage 1-82 Rossland Subdv., B.C., just south of Castlegar.
- 54593. July 24—Authorizing C.N.Rys. to remove interchange track at Dunshalt, Alta.
- 54594. July 22—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, toll published in tariff C.R.C. No. 759 filed by Temiscouata Ry. under Sec. 9.
- 54595. July 24—Approving traffic agreement between Bell Telephone Co. and Wightman Telephone System.
- 54596. July 26—Rescinding Order 52312, October 1, 1935, authorizing certain improvements to view at C.N.Rys. crossing of Milton side road, mileage 9-5 Kensington Subdv., P.E.I.

- 54597. July 27—Further extending until October 1, 1937, time within which C.N.Rys. may apply for leave to appeal from Board's Order No. 54321, *re* removal of facilities of Bell Telephone Co., et al, at certain street crossings in Montreal, P.Q.
- 54598. July 26—Authorizing Hinton Collieries Limited to construct two parallel tunnels under C.N.Rys. in south half of Sec. 15-51-25 W5M., Alta.
- 54599. July 26—Approving and authorizing clearances of superstructure of C.N.Rys. bridge over Saint John river at Fredericton, N.B.
- 54600. July 26—Extending until October 1, 1937, time within which C.N.Rys. may install bells and wigwags at crossing of Alexandre Taschereau boulevard at Greenfield Park, Que.
- 54601. July 26—Rescinding Order 52283, September 26, 1935, authorizing certain improvements to view at C.N.Rys. crossing at St. Nicholas, P.E.I.
- 54602. July 26—Rescinding Order 52313, October 1, 1935, authorizing certain improvements to view at C.N.Rys. crossing at mileage 16.3 Kensington Subdv., P.E.I.
- 54603. July 26—Approving traffic agreement between Bell Telephone Co. and Francis Albert Van Norman, proprietor of Van Norman Telephone System.
- 54604. July 28—Approving location and details of C.P.R. proposed new station at Maryland, Que.
- 54605. July 26—Approving traffic agreement between Bell Telephone Co. and Iron Bridge Telephone Co., Ltd.
- 54606. July 26—Approving telephone agreement between Bell Telephone Co. and La Compagnie de Telephone de Gentilly.
- 54607. July 28—Approving under Maritime Freight Rates Act, Sec. 3, Subsec. 3, tolls published in tariffs filed by C.N.Rys. under Sec. 3.
- 54608. July 28—Declaring C.P.R. crossing, second west of Alexander Station, Ont., protected to Board's satisfaction.
- 54609. July 28—Approving traffic agreement between Bell Telephone Co. and Comm'r's for the Telephone System of the tp. of Johnson.
- 54610. July 28—Approving traffic agreement between Bell Telephone Co. and Comm'r's for the Telephone System of the mun. of the tp. of St. Joseph.
- 54611. July 28—Approving traffic agreement between Bell Telephone Co. and Mansonville Utilities Limited.
- 54612. July 28—Approving traffic agreement between Bell Telephone Co. and Comm'r's for the Telephone System of the mun. of the tp. of Tarbutt and Tarbutt Additional.
- 54613. July 28—Approving traffic agreement between Bell Telephone Co. and Comm'r's for the Telephone System of the mun. of the tp. of Dunnet.
- 54614. July 28—Approving traffic agreement between Bell Telephone Co. and Thamesville Telephone Co., Ltd.
- 54615. July 28—Declaring C.N.Rys. crossing at mileage 40.88 Margo Subdv., Sask., protected to Board's satisfaction.
- 54616. July 29—Directing that the work of converting the farm crossing at mileage 18.4 Park Avenue Subdv., Parish of Ste. Therese de Blainville, Que., be proceeded with and completed by October 1, 1937.
- 54617. July 29—Authorizing C.N.Rys. to use and operate bridge over creek at mileage 13.2 Skeena Subdv., B.C.
- 54618. July 29—Authorizing C.N.Rys. to use and operate bridge over creek at mileage 56.6 Skeena Subdv., B.C.
- 54619. July 29—Authorizing C.N.Rys. to use and operate bridge over creek at mileage 80.0 Skeena Subdv., B.C.
- 54620. July 29—Authorizing C.N.Rys. to use and operate bridge over creek at mileage 84.8 Skeena Subdv., B.C.
- 54621. July 28—Authorizing Ontario Dept. Northern Development to construct highway crossing over C.N.Rys. in lot 13, con. 1, Dawson road lots, dist. Thunder Bay, Ont.
- 54622. July 29—Authorizing C.N.Rys. to use and operate bridge over creek at mileage 87.7 Skeena Subdv., B.C.
- 54623. Aug. 4—Permitting C.N.Rys. to reissue its tariff C.R.C. No. W-1231, effective August 23, 1937, and publish, in lieu of present rates, amended proportional rates producing the same combination as the through rates published in Agent Henry's tariff C.R.C. No. 170, or reissues thereof.
- 54624. Aug. 3—Authorizing C.P.R. to construct spur to serve Baker Mining & Milling Co., Ltd., at mileage 40.20 Newport Subdv., co. Brome, Que.
- 54625. Aug. 4—Authorizing C.N.Rys. to cross with proposed extension of spur the road allowance between lots 21 and 22, subdv. lot 117, O.D.Y.D., map 216, mile 103.80 Okanagan Subdv., near Winfield, B.C.
- 54626. Aug. 3—Dismissing complaint of Imperial Coal & Coke Co., Sarvice Ltd., J. Terry & Sons, and R. S. Crow & Co., regarding rates on bituminous coal and coke, carloads, from Detroit, Mich., to Chatham, Ont.

- 54627. July 30—Disallowing Can. Freight Ass'n (Western Lines) Special Tariff 184 C.R.C. No. 329, naming car demurrage charges on bulk grain unloaded into public or semi-public terminal elevators in Western Canada.
- 54628. July 29—Authorizing Dept. of Mines and Resources, National Parks Bureau, to change location of existing crossing of C.P.R. on Calgary-Banff Highway at Anthracite, Alta., to a point 400 feet west thereof.
- 54629. July 31—Authorizing C.N.Rys. to use and operate bridge over Bulkley river at mileage 60·8 Telkwa Subdv., B.C.
- 54630. July 30—Relieving C.P.R. from maintaining cattle guards at mileage 34·95 and 41·25 Three Rivers Subdv., Que.
- 54631. July 30—Relieving C.P.R. from maintaining cattle guards at four crossings on its St. Gabriel Subdv., Que.
- 54632. July 31—Authorizing C.N.Rys. to use and operate bridge over Bulkley river at mileage 62·2 Telkwa Subdv., B.C.
- 54633. Aug. 3—Approving Supp. 21 to Express Tariff C.R.C. No. E.T. 694 and Supp. 6 to Tariff C.R.C. No. E.T. 700 covering amendments to Regulations for Transportation by Express of acids, inflammables, etc.
- 54634. July 30—Relieving C.P.R. from maintaining cattle guards at certain crossings in Parishes of Ste. Anne des Plaines, St. Joachim and St. Lin, Que.
- 54635. Aug. 4—Declaring C.P.R. crossing, first south of Clark Station, Ont., protected to Board's satisfaction.
- 54636. Aug. 3—Authorizing C.N.Rys. to discontinue Shannonville, Ont., as a flag stop for train No. 446 and dispense with services of caretaker.
- 54637. Aug. 3—Authorizing C.N.Rys. to discontinue Marysville, Ont., as a flag stop for train No. 446 and dispense with services of caretaker.
- 54638. July 30—Authorizing Alberta Dept. Public Works to construct highway crossing over C.N.Rys. in NW $\frac{1}{4}$, Sec. 6-53-22, W5M., Alta.
- 54639. July 30—Authorizing Toronto Harbour Comm's to construct spur to premises of Gair Co., Canada, Ltd., at Toronto, Ont.
- 54640. Aug. 4—Declaring C.P.R. crossing, first north of Ste. Agathe Station, Que., protected to Board's satisfaction.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, September 1, 1937

No. 12

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In the matter of the question of the proposed acquisition of land necessary for the improvement of the vision at the crossing of St. Lawrence Street (known as Gibson's Crossing), Levis, P.Q., over the tracks of the Canadian National Railways, as set out in Order No. 53989, dated February 13, 1937.

(File No. 27652-6)

JUDGMENT

GUTHRIE, *Chief Commissioner:*

This is an application for the amendment of the Board's order in respect of this crossing, and was heard in Quebec on July 19, 1937. The mayor and other representatives of the city of Levis appeared upon the hearing, also counsel for the Canadian National Railways, and Dr. Dussault, M.P., who has taken a deep interest in this matter.

The objection taken in connection with the present order is that the city of Levis is ordered to pay all land damage. The land damage is likely to be very small as it is only proposed to remove a small portion of a cliff which now obscures the view of the railway track. It will only require the removal of about 30 or 40 feet of this cliff, but the owner of the property upon which the cliff stands is most unreasonable in regard to the price which he places upon his property. He insists upon the city of Levis buying his whole property at a very high price. The lot upon which the cliff stands is only assessed at \$25, while the adjoining lot which the owner insists upon selling, is assessed at about \$800. The city of Levis does not desire to take steps to expropriate this small piece of the cliff upon the ground of the local feeling which has arisen in Levis over this matter. The railway company expressed its willingness to take expropriation proceedings, provided the company were indemnified against all expense and costs necessitated by such proceedings. Dr. Dussault, M.P., suggested that the present order be amended by providing that the railway company undertake expropriation, and that the total cost of expropriation be added to the general cost of the proposed work. Under the present order, 70 per cent of the cost is to be paid from Vote No. 420 of 1936-37, 15 per cent by the city of Levis, and 15 per cent by the railway company. The additional cost of expropriation proceedings should not be more than \$250 or \$300.

Counsel for the railway company stated that he had no authority to agree to the new proposal, but in my opinion the Board should amend the order providing for expropriation by the railway company; that the cost of the expropriation proceedings including the purchase price of the land should be added to the general cost of the work, and that the same should be paid for in the proportions above set out.

July 22, 1937.

The Deputy Chief Commissioner and Commissioner Stoneman concurred.

(TRADUCTION)

In re la question de l'acquisition projetée du terrain nécessaire pour améliorer la vision au passage de la rue St-Laurent (connu sous le nom de passage Gibson), dans la cité de Lévis, P.Q., que croise la voie des chemins de fer Nationaux du Canada, conformément à l'ordonnance de la Commission n° 53989, en date du 13 février 1937. (Dossier n° 27652.6)

JUGEMENT

GUTHRIE, *Commissaire en chef*:—

Il s'agit ici d'une requête pour modifier l'ordonnance de la Commission relativement à ce passage. Elle fut entendue à Québec le 19 juillet 1937. Le maire ainsi que d'autres représentants de la Cité de Lévis comparurent à l'audition, de même que l'avocat des chemins de fer Nationaux du Canada et le docteur Dussault, M.P., qui s'est beaucoup intéressé à cette affaire.

L'objection faite par rapport à cette ordonnance est due au fait qu'elle ordonne à la cité de Lévis de payer tous les dommages à la propriété. Les dommages à la propriété seront probablement de très peu d'importance, car l'on se propose seulement d'enlever une pointe de rocher qui est actuellement cause d'obstruction à la vue de la voie ferrée. Ceci nécessitera l'enlèvement de 30 à 40 pieds de roc seulement; mais le propriétaire du terrain sur lequel se trouve la falaise est loin d'être raisonnable au sujet du prix auquel il évalue sa propriété. Il insiste pour que la Cité de Lévis achète toute sa propriété à un prix très élevé. Le lot sur lequel se trouve la falaise n'est évalué qu'à \$25 tandis que le lot voisin que le propriétaire exige de faire acheter est évalué à \$800. La Cité de Lévis n'entend pas prendre de mesures pour exproprier ce petit morceau de la falaise à cause des sentiments des gens de l'endroit au sujet de cette affaire. La compagnie de chemin de fer a laissé entendre qu'elle était prête à prendre des procédures d'expropriation pourvu qu'elle soit indemnisée pour toutes les dépenses et tous les frais que les dites procédures occasionneront. Le docteur Dussault, M.P., a suggéré que l'ordonnance déjà rendue soit modifiée de façon à ce que la compagnie de chemin de fer entreprenne elle-même les procédures d'expropriation, et que le coût total de cette expropriation soit ajouté au coût général des travaux projetés. Aux termes de la présente ordonnance, 70% du coût doit être payé à même le vote de subsides n° 420, estimés supplémentaires de 1936-37, 15% par la cité de Lévis, et 15% par la compagnie de chemin de fer. Les frais additionnels des procédures d'expropriation ne devraient pas dépasser \$250 ou \$300.

L'avocat de la compagnie de chemin de fer a déclaré qu'il n'était pas autorisé à accepter la nouvelle proposition, mais, à mon avis, la Commission devrait modifier l'ordonnance pour que l'expropriation soit faite par la compagnie de chemin de fer, pour que les frais de procédures d'expropriation y compris le prix d'acquisition du terrain soient ajoutés au coût général des travaux et pour que ces sommes soient payées dans la proportion établie ci-dessus.

Le 22 juillet 1937.

Le Commissaire en chef suppléant et le Commissaire Stoneman se sont ralliés au jugement ci-dessus.

ORDER No. 54665

In the matter of the Order of the Board No. 53989, dated February 13, 1937, as amended by Order No. 54295, dated May 13, 1937, authorizing the Municipality of the City of Levis to remove the obstructions to the view caused by a point of rock, or cliff, at the crossing of St. Lawrence Street by the Canadian National Railways west of Hadlow Station, Quebec, mileage 2·9 Drummondville Subdivision, and apportioning the cost thereof;

And in the matter of the question of the proposed acquisition of land necessary for the said improvement to the view at the said crossing.

File No. 27652·6

THURSDAY, the 22nd day of July, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the application of the Municipality of the City of Levis in the presence of counsel for the Canadian National Railways,—

It is ordered:

1. That paragraph 1 of the said Order No. 53989, dated February 13, 1937, be struck out and the following paragraph substituted therefor:—

“1. That the Canadian National Railways be, and they are hereby, authorized to remove the obstruction to the view caused by a point of rock, or cliff, at the crossing of St. Lawrence street west of Hadlow Station, in the province of Quebec, mileage 2·9 Drummondville Subdivision, shown on Canadian National Railways' plan dated January 5, 1937, on file with the Board under file No. 27652·6; and that all land damage and all costs of any expropriation proceedings which may become necessary in order to carry out the said work shall be added to the cost of construction, and shall be borne and paid by the parties in the following proportions: Fifteen per cent of such cost to be paid by the city of Levis, fifteen per cent by the Canadian National Railways, and, with the approval of the Governor in Council by Order in Council P.C. No. 1852, dated August 6, 1937, the remaining seventy per cent be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38; and the said payments shall be in addition to the payments set out in paragraph 4 of the said Order No. 53989.”

2. It is further ordered that the Order of the Board No. 54295, dated May 13, 1937, be, and the same is hereby, rescinded.

3. And it is further ordered that in all other respects the said Order No. 53989, dated February 13, 1937, be, and the same is hereby, confirmed, and the date for the completion of the work is hereby extended until the 1st day of December, 1937.

H. GUTHRIE,

Chief Commissioner.

Application of¹ various coal companies at Pinto and Roche Percee, Sask., in respect to the matter of placing Shand, Roche Percee and Pinto, in the Souris Valley, on an equitable coal rate basis with rates applicable from Estevan and Bienfait to stations in Western Canada.

File No. 27425.72.

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This application was heard at Regina on June 23, 1937, in the presence of representatives of the applicants and the Canadian Pacific and Canadian National Railways.

The applicants asked:—

First.—That Shand, Roche Percee, and Pinto be accorded the same rates to all Canadian Pacific Railway points, when in excess of 100 miles from basing point, as is accorded Estevan and Bienfait.

Second.—To Canadian Pacific Railway points, 100 miles or less distant from the basing point, and which are not affected by “special” rates, as published in C.P.R. Tariff W-419, that rates from Shand, Roche Percee, and Pinto be established on a constructive mileage basis from an established basing point, said rate when so established to be applicable to a point of destination from all shipping points in the Souris Valley district.

Third.—That rates from Shand, Roche Percee, and Pinto to Canadian National Railway stations, be established on a basis of the through two line mileage via the shortest and most direct route. That such rates when so constructed will not exceed 20 cents per ton over the rate prevailing from Estevan to the same destinations.

Fourth.—That when competitive rates are established from Estevan and Bienfait to points on one line of railway that are brought about by reason of lower rates to contiguous territory of the shorter line, that similar reductions be accorded the rates from Shand, Roche Percee and Pinto to the points affected.

Fifth.—That the present Saskatchewan coal mileage rate scale be amended to a basis that will have symmetric increases of mileage units throughout, similar to what has been suggested herein, and that a rate will increase by not more than $\frac{1}{2}$ cent per 100 pounds per mileage unit.

Sixth.—That special rates as published in C.P.R. Tariff W-419 to meet motor truck competition be established on the same mileage basis as outlined in the second subsection herein above, and instead of setting up a separate mileage scale of rates, that the special rates be established

¹ The companies parties to the application are:—

Lignite Coal Mines, Limited, Pinto,
 Rock Spring Mine, Pinto,
 Banner Mine, Pinto,
 Pinto Collieries, Pinto,
 Bank's Mine, Pinto,
 Poage Coal Mines, Roche Percee,
 Sinclair Mine, Roche Percee,
 Rex Strip Mine, Roche Percee,
 Elm Valley Coal Company, Roche Percee,
 Souris Valley Mine, Roche Percee,
 Baninlis Mine, Roche Percee,
 Good Luck Mine, Roche Percee.

by the application of a set percentage reduction to the standard rates; by so doing it permits the rates to still retain the same relationship to one another.

We will deal with these matters seriatim.

1

That Shand, Roche Percee, and Pinto be accorded the same rates to all Canadian Pacific Railway points, when in excess of 100 miles from basing point, as is accorded Estevan and Bienfait.

This is the most important part of the application from the applicants' standpoint, namely, that Shand, Roche Percee and Pinto be grouped with and accorded the same rates as Estevan and Bienfait to all Canadian Pacific Railway points beyond 100 miles from the basing point. In fact, Mr. Stimpson, representing the applicants, stated that if this point were conceded, he would not press the balance of the application, but they had been forced into a number of arguments in respect to a revision of rates by the refusal of the railways to accept these points into the Bienfait and Estevan group. Coal rates in Western Canada were fully considered by the Board and reductions therein directed in its Judgment in the Western Rates Case, 1914. The coal rates from the Souris Valley district were then established on the basis of 50 per cent of the 10th class standard mileage scale and the Board, in the said judgment, also commended the arrangement on the Crow's Nest line of the Canadian Pacific Railway, under which there was a grouping of mines at the same rate. It was there stated:—

“An arrangement that commends itself has been introduced by the Canadian Pacific in connection with the mines along the Crow's Nest line. As a rule the collieries are more or less bunched into well-defined groups, separated by exceptional distances or by physical barriers. For example, the Reliance-Taber-Barnwell pits are bunched within $7\frac{1}{2}$ miles, followed by Lethbridge and Kipp, 8 miles apart and linked together for rate-making purposes but 27 miles farther west than Barnwell, of the first-mentioned group. Then follows Lundbreck, 65 miles west of Kipp; and next, going west, is a chain of seven mines, from Burmis to Coleman inclusive, covering only 13 miles; and so on. Notwithstanding the fact that the actual mileage would not give each mine in each group the same rate in all cases, the practice has been to establish equality of tolls from each group of mines to all destinations over 100 miles distant; that is to say, for eastbound hauls the rate appropriate to the mileage of the easternmost pit, and westbound that from the westernmost, is applied from the whole group. This seems to me to be so fair an arrangement that it should be continued, and be applied in all the coalfields tapped by each railway company.”

It will be observed that the Board did not specifically prescribe the grouping, but merely stated that that principle should be continued and extended. The grouping arrangement followed in the preparation of tariffs in compliance with the Western Rates Case Judgment was as follows:—

The most easterly mine in the group to be considered the basing point on eastbound movements, i.e. the rate computed on the mileage from the said point, and the most westerly point in the group to be considered the basing point on westbound movements. To points over 100 miles from the basing point, rates were established as follows:—

From mines up to 10 miles from the basing point (fractions of a mile over 10 to be treated as 10)—the same rate as from the basing point;

From mines over 10 but not over 30 miles from the basing point—
basing point rate plus $\frac{1}{2}$ cent per 100 pounds;

From mines over 30 but not over 70 miles from the basing point—
basing point rate plus 1 cent per 100 pounds.

The rate situation then produced from the Souris Valley group of mines is as follows to Canadian Pacific Railway destinations:—

WESTBOUND

Estevan..	Basing Point.	
Bienfait..	8.6 Miles	—Estevan Rates.
Shand..	6.1 Miles	—Estevan Rates.
Roche Percee.. . . .	10.3 Miles	—Estevan Rates.
Pinto..	15.0 Miles	—Estevan Rates plus $\frac{1}{2}$ cent.

EASTBOUND

Bienfait..	Basing Point.	
Estevan..	8.6 Miles	—Bienfait Rates.
Shand..	14.7 Miles	—Bienfait Rates plus $\frac{1}{2}$ cent.
Roche Percee.. . . .	18.9 Miles	—Bienfait Rates plus $\frac{1}{2}$ cent.
Pinto..	23.6 Miles	—Bienfait Rates plus $\frac{1}{2}$ cent.

Applicants state that, since 1914, the manner in which the railways have published rates to take care of new developments in the coal industry has resulted in a discriminative condition being created, because other new areas have been given rates permitting equality of tolls within shipping areas considerably greater than is allowed in the Souris Valley district. Applicants contend, therefore, that, in view of the fact that other coal shipping areas are given the benefit of an equal rate taking in a much greater mileage area than involved in the Souris Valley, Shand, Roche Percee and Pinto should be accorded similar treatment by including them in the Bienfait and Estevan group.

Applicants referred to the grouping in the Lethbridge District, citing Diamond City and Piyami, 12.5 and 16.4 miles, respectively, from Lethbridge, two shipping points developed since 1914, which have been accorded the benefit of the Lethbridge-Kipp grouping of 1914. Applicants are incorrect in citing these points as a departure from the 1914 grouping arrangement for eastbound movements, because the basing point is Grassy Lake and the two points in question are within the group of over 30 but not over 70 miles from the basing point and take the basing point rate plus 1 cent per 100 pounds.

Applicants next make reference to the Drumheller district and the rate treatment there provided by the Canadian Pacific Railway. For eastbound movements to Canadian Pacific Railway destinations, all shipping points from East Coulee to Carbon, inclusive, a distance of 37 miles, take the same rate. This departure from the grouping adopted at the time of the Western Rates Case was established at a considerably later date and voluntarily by the railway. Consideration has been given to what is stated in the written submissions of the railways, and at the hearing, concerning the history of the rates in this district, but we have not been furnished with any convincing reason why "circumstances are such in connection with eastbound rates that the regular grouping system could not be adopted," as stated in the railways' written submissions. The railways submit that because the coal rates from the Souris Valley district are on a somewhat lower basis than from other districts, there is no ground for a charge of discrimination with respect to the extent of the grouping arrangement from the higher rated areas. A somewhat lower rate basis from the Souris Valley district existed prior to the Western Rates Case and, by it, was continued and the Judgment in that case clearly intended that the Souris Valley mines receive the benefit of the same grouping system as given in other coal-shipping areas. We do not consider the difference in rate basis provides any justification for a difference in treatment with respect to the grouping arrangement. Admitting the railways' contention on this point, it is conceivable that the grouping arrangement in other areas could largely nullify the rate difference specifically directed.

Applicants also directed attention to the Coalspur-Mountain Park district of the Canadian National Railways, where there has also been a departure made from the 1914 grouping principle and, eastbound, to destinations east of Edmonton, the same rate applies from all shipping points within an area of 33.7 miles. The railways pointed out that the present application is directed primarily against the Canadian Pacific Railway, as the situation alleged to be discriminatory exists at stations local to that line and referred to decisions of the Board to the effect that rates charged by one railway were not necessarily the measure of what another railway should charge and that such a comparison is no evidence of discrimination. If consideration were being given only to rates to points on the Canadian National Railways, the decisions in question would be relevant, but, inasmuch as the Canadian Pacific Railway is a participating carrier in joint rates from this district to stations on their lines and, with respect to such joint rates, all the mines in this district are grouped at a common rate, it would clearly seem to point to another departure from the 1914 grouping system in which the Canadian Pacific Railway participates and reference thereto by applicants is, therefore, relevant.

Upon full consideration of all that was submitted in this connection and having regard to the extension made by the railways in the groups in the districts above mentioned, we have decided that similar treatment should be accorded the Souris Valley mines and that they should be grouped at the same rate as applicable from the basing point to all destinations on the Canadian Pacific Railway. This is not as far-reaching as it might seem, because in a great many instances, the application of the coal mileage scale at present makes the same rate from Shand, Roche Percee, and Pinto as from the basing point, as is clearly shown upon a reference to the tariff.

2

To Canadian Pacific Railway points, 100 miles or less distant from the basing point, and which are not affected by "special" rates, as published in C.P.R. Tariff W-419, that rates from Shand, Roche Percee, and Pinto be established on a constructive mileage basis from an established basing point, said rates when so established to be applicable to a point of destination from all shipping points in the Souris Valley district.

The grouping arrangement applies only to destinations over 100 miles from the basing point. From all mines to all destinations within 100 miles of the basing point, the normal rates are based on the mileage scale approved by the Board for the actual distance from each shipping point. Each shipping point is, therefore, now on an equal basis, distance considered. What is here applied for is not in effect under any mileage scale now published on any commodity. Applicants have not supported their request by any evidence that the present arrangement is unreasonable, or given any reasons for what is asked for. They have not set out specifically what constructive mileage basis is suggested and we consider that it would be a difficult, if not impracticable, arrangement to work out for short hauls. Further, within this distance, the railways have found it necessary to establish rates below the normal scale to meet truck competition and Mr. Stimpson stated:—

"We can appreciate that we will have, until truck rates are abolished, two separate mileage scales, up to 100 miles."

We are not justified, upon what is before us, in giving this matter any further consideration.

3

That rates from Shand, Roche Percee, and Pinto to Canadian National Railway stations, be established on a basis of the through two line mileage via the shortest and most direct route.

That such rates when so constructed will not exceed 20 cents per ton over the rate prevailing from Estevan to the same destinations.

The Board's direction in the Western Rates Case with respect to joint rates on coal was:—

“For joint hauls between points involving the services of two carriers, the through rate must not be more than 20 cents per ton over and above that applicable to the through mileage as for one carrier; and where, in some isolated cases, the companies, for some specific reasons, have an existing rate lower than the basis now prescribed, the existing rate shall be continued.”

Applicants stated that the foregoing principle has not been adhered to and there are differences from Shand, Roche Percee, and Pinto up to 70 cents per ton to joint line points over the rates from Bienfait and Estevan. It was suggested that the differences were greater than they should be in some cases because the traffic was routed so as to give the originating carrier the long haul and tended to produce a greater spread than by computing the joint rates based on the shortest workable route. Other factors which may enter into the matter were also mentioned, such as competitive conditions. In their written submissions, the applicants specifically cite certain districts with varying differences.

In the first place, it may be stated that, under the provisions of Order in Council P.C. No. 1863, dated August 12, 1918, and the disposition of fractions therein prescribed the 20 cent difference for two-line hauls became 30 cents in a good many cases. There appears to be some misunderstanding, or, perhaps, lack of complete knowledge by applicants with respect to these joint rates. The railways state that the rates for joint hauls are published in accordance with the Board's Judgment in the Western Rates Case, as modified by subsequent orders authorizing rate increases and reductions. There are various reasons for the differences, or lack of difference, namely:—

(1) The Canadian National Railways rates from Bienfait and Estevan to certain points are below the established basis and the Board stated in its Judgment in the Western Rates Case that where the companies had, for some specific reasons, existing rates lower than those prescribed therein, the existing rates should be continued.

(2) From Bienfait and Estevan, the Canadian National Railways take advantage of the Canadian Pacific Railway short line mileage in meeting rates to competitive and contiguous points.

(3) Where no differences exist, it is due to the fact that the joint mileages from the mines in question are less than the Canadian National Railways mileage from Bienfait or Estevan.

With regard to applicants' statement that the shortest workable route has not always been used, the railways assert that the practice of basing joint rates on the shortest available mileage, even though shipments are routed via junction points giving the initial carrier the longest possible haul, has been strictly adhered to, except in very exceptional circumstances where it has been necessary to make a departure in order to protect rates to points based on the one-line scale. The railways stated that the only territory in which such departure was made was in the vicinity of Yorkton and, so far as the applicants are concerned, from the evidence given the rates to this territory are merely “paper” rates, as is also the case with respect to a great many other Canadian National Railways destinations covered by their submissions. Taking the districts specifically referred to by applicants, the Canadian Pacific Railway filed Exhibits Nos. 7 to 15, inclusive, showing in detail how the joint rates are constructed to the destinations in question. Applicants were supplied with copies of these exhibits and have since filed no exceptions thereto. Similar differences with respect to the

joint rates will be found upon an examination of the tariff from local Canadian Pacific Railway points contiguous to Drumheller as compared with Drumheller rates.

4

That when competitive rates are established from Estevan and Bienfait to points on one line of railway that are brought about by reason of lower rates to contiguous territory of the shorter line, that similar reductions be accorded the rates from Shand, Roche Percee, and Pinto to the points affected.

Under this heading, the following example, cited by applicants, may be referred to. Stations on the Reston subdivision of the Canadian Pacific Railway between Maryfield and Peebles are contiguous to Canadian National Railways stations Maryfield to Peebles on the Cromer and Glenavon Subdivisions of the Canadian National Railways, but the distance from Bienfait via the Canadian National Railways to these destinations on its line is very much shorter than from Bienfait via the Canadian Pacific Railway to its contiguous stations, consequently, the Canadian Pacific Railway publishes competitive rates below the normal coal scale from Bienfait to meet the rates of the Canadian National Railways, which are based on the normal coal scale. The rates from Bienfait are as follows:—

VIA CANADIAN NATIONAL RAILWAYS			VIA CANADIAN PACIFIC RAILWAY		
To	Miles	Rate	To	Miles	Rate
Maryfield, Sask..	86	7½	Maryfield, Sask..	187	7½
Fairlight, Sask..	93	7½	Fairlight, Sask..	194	7½
Doonside, Sask..	99	7½	Walpole, Sask..	201	7½
Kelso, Sask..	107	8	Wawota, Sask..	211	8
Vandura, Sask..	114	8½	Dumas, Sask..	218	8½
Langbank, Sask..	123	9	Kennedy, Sask..	228	9
Inchkeith, Sask..	131	9	Bender, Sask..	237	9
Kipling, Sask..	138	9½	Neelby, Sask..	243	9½
Dalzell, Sask..	144	9½	Windthorst, Sask..	250	9½
Carlsberg, Sask..	151	9½	Peebles, Sask..	257	9½
Peebles, Sask..	153	9½			

No change was made in the rates published from Pinto, with the result that the joint rates from Pinto to these Canadian National Railways points are lower than from Pinto to the Canadian Pacific Railway points in the same competitive area, as illustrated by the following examples:—

Canadian National Railways Point		Rate	Contiguous Canadian Pacific Railway Point		Rate
Doonside..		9½	Walpole..		11
Kelso..		9½	Wawota..		11
Vandura..		10	Dumas..		11
Langbank..		10½	Kennedy..		11½
Inchkeith..		10½	Bender..		11½
Kipling..		10½	Neelby..		11½
Dalzell..		10½	Windthorst..		11½

The reason, of course, for the joint rates to these Canadian National Railways points being lower than to the Canadian Pacific Railway points is that the mileage via the joint route through the nearest junction point in conjunction with the two-line basis of rates makes lower rates than applicable under the coal scale for the much longer distance via the Canadian Pacific Railway to the Canadian Pacific Railway destinations. We were not furnished with any detailed information concerning the movement of coal under these rates. The railways stated that when the rates from Bienfait were reduced, there was no indication that the Canadian Pacific Railway was losing any business from Pinto to the Canadian Pacific Railway destinations referred to because the rates were higher than to contiguous points on the Canadian National Railways. From what is before us, we must assume that unless the Canadian Pacific Railway placed its rates from Bienfait on a parity with those of the Canadian National Railways, as shown in the tabulation first set out above, the coal would move via

the Canadian National Railways. That could be the only justification for the establishment of competitive rates. If, therefore, from Bienfait the Canadian Pacific Railway required to establish a rate parity to prevent the traffic reaching destination over the contiguous and parallel line of the Canadian National Railways, then it seems obvious that coal could not be expected to move from Pinto to the Canadian Pacific Railway stations in question at higher rates than published to the contiguous Canadian National Railways stations. It would seem that self-interest of the Canadian Pacific Railway would impel the maintenance of the same rate parity from Pinto as it found necessary from Bienfait and that such situations should be considered by the railway when competitive rates are published under circumstances such as here described. We cannot make any specific, or general, direction upon the meagre record before us, but have expressed our views, and it is always open to anyone to bring any specific case of alleged discrimination to the Board's attention and have it fully developed. It would appear to us that consultation between the shippers and the railways would ordinarily result in a satisfactory adjustment of matters of this kind.

5

That the present Saskatchewan coal mileage rate scale be amended to a basis that will have symmetric increases of mileage units throughout, similar to what has been suggested herein, and that a rate will increase by not more than $\frac{1}{2}$ cent per 100 pounds per mileage unit.

Applicants stated that the coal mileage scale of rates applicable from the Souris Valley district lacks symmetrical construction in that the mileage units upon which the rates are stepped up are not uniform, also that there are some disparities in the rate increase per mileage unit. They also point to the same condition existing with respect to the Alberta coal scale. They express the opinion that mileage rate scales such as these should have uniform mileage units and, as distance increases, the said units to be uniformly increased, also that rate units should not increase more than $\frac{1}{2}$ cent per 100 pounds, or ten cents per ton, per mileage unit. For the Souris Valley scale, they propose units of 10 miles up to 40 miles; units of 15 miles over 40 and up to 100 miles; units of 20 miles over 100 and up to 400 miles; and units of 25 miles over 400 miles. Under their proposed scale, a great many rates for distances under 400 miles would be reduced by $\frac{1}{2}$ or 1 cent per 100 pounds and, over 400 miles, many rates would be increased by $\frac{1}{2}$ or 1 cent per 100 pounds.

Applicants stated it was difficult to understand what basic rate principles were followed in the construction of these scales. It is difficult to appreciate this statement of the applicants, because they are fully aware of the original basis of the scales and have themselves set it out, on page one of their application, namely, from the Souris Valley district on the basis of 50 per cent of the 10th class standard mileage scale and, from the other districts, 55 per cent of the 10th class standard mileage scale. The so-called inconsistencies, obviously, have their origin in the standard mileage scale and by the increases and reductions subsequently provided for on a graduated scale, which Mr. Stimpson is fully cognizant of. If mileage scales are to be condemned merely because of their lack of symmetrical construction, then all the mileage scales of rates in Canada, and there are a great many of them, are similarly condemned, as we are unaware of a single mileage scale possessing complete symmetrical construction. These many scales may not be strictly symmetrical according to the views of the applicant, but it is not shown in what respect they are actually unjust or unreasonable; everybody is on the same scale. We are unaware of any previous complaint in this respect and the lack of symmetry has always existed. The adoption of the proposed symmetrical scale would, undoubtedly, result in strong complaints to the Board. In this connection, the railways, in their submissions, state:—

"The basis proposed for the construction of coal rates is purely theoretical. The adoption of such a basis is not only impracticable but would result in the entire disruption of the freight rate structure in Western Canada.

It will be noted that the proposed scale provides for reductions for practically every mileage group below 400 miles. The adoption of such a scale would entail needless loss in revenue to the carriers, as the major portion of the tonnage shipped from the Souris Valley is to destinations within this distance. On the other hand, if such a scale is adopted for the Souris Valley Field, a corresponding scale would necessarily have to be applied from the Alberta field. In the latter case the major portion of the tonnage shipped is to destinations of 400 miles or over from shipping points where there would be an increase in the rates. Such an increase would undoubtedly be vigorously opposed by the Alberta producers."

Nothing was put before us justifying any direction with respect to a modification of the coal mileage scale.

6

That special rates as published in C.P.R. tariff W-419 to meet motor truck competition be established on the same mileage basis as outlined in the "Second" subsection herein above, and instead of setting up a separate mileage scale of rates, that the special rates be established by the application of a set percentage reduction to the standard rates; by so doing it permits the rates to still retain the same relationship to one another.

If, as expressed herein, we do not consider that action should be taken as set out by the second heading of the application, then there is a still greater reason why there should be no direction such as here applied for. Applicants state that the action of the Canadian Pacific Railway in attempting to meet motor truck competition has injured them, but aside from certain rate comparisons which are not at all conclusive, having in mind the circumstances under which rates to meet truck competition are ordinarily established, there is no supporting evidence of the alleged injury. No data were furnished showing the volume of traffic involved; the proportions shipped by rail and by truck; whether the volume shipped by applicants has been reduced since the railway published the competitive tariff; if so, from what points the tonnage increased due to the publication of the said rates. The railway states that if the applicants were injured, or lost markets, this condition does not result from its action, but existed prior to the publication of the competitive tariff; that, in publishing this tariff, the railway was merely attempting to regain traffic which had already been lost to the trucks by reason of the lower rates which were being charged by them and the railway is not responsible for these unregulated truck-compelled rates. We must assume, in the absence of anything on the record to the contrary, that the competitive rates published were those it was necessary to establish to actually meet the existing truck competition found to exist between the shipping and destination points in question and that a direction such as here asked for would, therefore, be impracticable so far as enabling the railway to continue the publication of the competitive rates necessary to meet the competition existing in each individual case.

OTTAWA, Ont.,

August 17, 1937.

Commissioners Stoneman and Stone concurred.

ORDER No. 54711

In the matter of the application of the various coal companies at Pinto and Roche Percee, Saskatchewan, in respect to the matter of placing Shand, Roche Percee, and Pinto, in the Souris Valley, on an equitable coal rate basis with rates applicable from Estevan and Bienfait to stations in Western Canada.

File No. 27425.72

WEDNESDAY, the 18th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at a sitting of the Board held in Regina on June 23, 1937, in the presence of representatives of the applicants and the Canadian Pacific Railway Company and the Canadian National Railways,—

It is ordered: That the Canadian Pacific Railway Company be, and it is hereby, directed to establish forthwith on coal, in carloads, from Shand, Roche Percee, and Pinto, in the province of Saskatchewan, the same rates as are now in force from Estevan and Bienfait to stations on the Canadian Pacific Railway over 100 miles from the basing point of Estevan and Bienfait.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54647

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 30th day of July, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 17 to Tariff C.R.C. No. E-4324, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 17 to Tariff C.R.C. No. E-4324 are those shown for rate bases given below and published in the Canadian Pacific Railway Supplement No. 51 to Tariff C.R.C. No. E-3221, namely:—

To	Saint John, N.B.	Halifax, N.S.	Middleton, N.S.	Bridgetown, N.S.	Yarmouth, N.S.	Riviere du Loup, Que.
1700 Sault Ste. Marie, Ont.	82	84	90	90	94	78
1702 Odena, Ont.						
1704 Granite, Ont.	82	84	90	90	94	78
1706 Heyden, Ont.						
1708 Island Lake, Ont.						
1710 Bellevue, Ont.	82	84	92	94	94	78
1712 Northland, Ont.						
1714 Glendale, Ont.	88	88	92	94	98	80
1716 Searchmont, Ont.	90	92	96	96	100	84
1718 Wabos, Ont.						
1722 Achigan, Ont.	90	92	100	100	104	88
1724 Bucyrus, Ont.						
1726 Ogidaki, Ont.	94	96	104	104	108	88
1728 Marion, Ont.						
1730 Mashkode, Ont.						
1732 Trout Lake, Ont.	98	100	108	108	112	90
1734 Alva, Ont.						
1736 Mekatina, Ont.						
1738 Pangis, Ont.	102	102	110	112	116	94
1740 Spruce, Ont.						
1742 Mongoose, Ont.	104	106	114	114	116	98
1744 Batchewans, Ont.						
1746 Regent, Ont.	112	114	118	118	120	104
1748 Hubert, Ont.						
to	112	114	118	118	120	104
1764 Hawk Jet., Ont.						
1770 Alden, Ont.						
1772 Goudreau, Ont.	116	118	126	126	130	112
1774 Wanda, Ont.						
1776 Scully, Ont.						
to	112	114	118	118	120	104
1788 Langdon, Ont.						
1790 Oba, Ont.	100	100	110	110	114	92
1792 Norris, Ont.						
to	112	114	118	118	120	104
1803 Wyborn, Ont.						
1804 Hearst, Ont.	106	106	114	114	116	102
1806 Josephine Jet., Ont.						
to	112	114	118	118	120	104
1820 Michipicoten, Ont.						
3350 Kirkland, Ont.						
3352 King Kirkland, Ont.	88	88	94	94	98	84
3354 Crystal Lake, Ont.	92	92	98	98	100	88
3356 Northlands Park, Ont.						
to	92	92	98	98	100	88
3368 Dasserat, Que.						
3369 Kanasuta, Que.						
to	92	92	98	98	100	88
3374 Boischatel, Que.						
3376 Rouyn, Que.	92	92	94	94	94	78
3378 Noranda, Que.	*86	*88	..	..	..	..
* Competitive						
4000 Trout Mills, Ont.						
4002 Lounsbury, Ont.	66	66	74	76	78	62
4004 Feronia, Ont.						
4006 Widdifield, Ont.	70	72	78	78	82	68
4008 Mulock, Ont.	72	74	82	82	86	70
4010 White Rock, Ont.						
4012 Tomiko, Ont.	72	74	82	82	86	70
4014 Jocko, Ont.						
to	80	80	86	86	92	76
4020 Diver, Ont.						
4022 Otter, Ont.						
to	80	80	86	86	92	76
4028 Red Water, Ont.						

To	Saint John, N.B.	Halifax, N.S.	Middleton, N.S.	Bridgetown, N.S.	Yarmouth, N.S.	Riviere du Loup, Que.
4030 Doherty, Ont.	80	80	86	86	92	76
4032 Temagami, Ont.						
4034 Goward, Ont.						
4036 Owaissa, Ont.	82	82	90	90	94	78
4038 Rib Lake, Ont.						
to	82	82	90	90	94	78
4056 Haileybury, Ont.						
4058 New Liskeard, Ont.	84	84	94	94	94	80
to						
4070 Englehart, Ont.	88	90	94	94	98	80
4073 Kadmon, Ont.						
to	88	90	94	94	98	84
4090 Swastika, Ont.						
4092 Kenogami Lake, Ont.	88	90	94	94	98	84
4094 Sesikinika, Ont.						
to	88	90	94	94	98	84
4102 Ramore, Ont.						
4104 Vimy Ridge, Ont.	92	92	98	98	102	88
to						
4134 Cochrane, Ont.	88	90	94	94	98	84
4200 McCool, Ont.						
to	92	92	98	98	102	88
4222 Charlton, Ont.						
4224 Onagon, Ont.	92	92	98	98	102	88
to						
4260 Timmins, Ont.						

From stations on the Dominion Atlantic Railway one and one-half cents per 100 pounds to be deducted account of water haul.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54623

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicant Company," for permission to file, on less than statutory notice, a reissue of its tariff C.R.C. No. W-1231.

File No. 27612.160

WEDNESDAY, the 4th day of August, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.
J. A. STONEMAN, Commissioner.

Upon its appearing that the said tariff was issued naming proportional rates on fresh fruits and melons from Chilliwack, New Westminster and Vancouver, B.C. to destinations in Alberta and Saskatchewan to equalize via British Columbia gateways and the Applicant Company, the through rates via Kingsgate named in North Pacific Coast Freight Bureau tariff C.R.C. No. 170 of S. J. Henry, Agent.

That, effective August 23, 1937, the rates from the origin points shown to New Westminster and Vancouver are in some cases being reduced, which will have

the effect that the combination rates based on the proportional rates shown in the said tariff of the Applicant Company will be at variance with the published through rates.

And it being desired by the Applicant Company to reissue its tariff C.R.C. No. W-1231, effective upon the same date, so as to maintain a parity of rates.

It is Ordered: That the Applicant Company be, and it is hereby, permitted to reissue its tariff C.R.C. No. W-1231, effective August 23, 1937, and publish, in lieu of the present rates, amended proportional rates producing the same combination as the through rates published in Agent Henry's tariff C.R.C. No. 170, or reissues thereof.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54646

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 4th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act, namely:—

Supplement No. 19 to Tariff C.R.C. No. E-2444.
Supplement No. 7 to Tariff C.R.C. No. E-2526.
Supplement No. 16 to Tariff C.R.C. No. E-2564.
Supplement No. 1 to Tariff C.R.C. No. E-2629.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54649

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 5th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the toll published in item No. 305 of Supplement No. 11 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item No. 305 of Supplement No. 11 to Tariff C.R.C. No. E-4808, approved herein, is 5 $\frac{3}{4}$ cents per 100 pounds.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54654

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 5th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the tolls published in item No. 110 J of Supplement No. 15 to Tariff C.R.C. No. E-4316, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item No. 110 J of Supplement No. 15 to Tariff C.R.C. No. E-4316, approved herein, are as follows:—

From	To	Cents per 100 pounds
Edmundston, N.B.	Montreal, Que.	22
St. Leonard, N.B.	Montreal, Que.	23
	Trois Rivières, Que.	27½

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54655

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 5th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the tolls published in items numbered 860A and 3940B of Supplement No. 12 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said items numbered 860A and 3940B of Supplement No. 12 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

Item	To	Cents per 100 pounds
860 A St. Stephen, N.B.		12½
3940 B Cabano, Que.		37½
	Notre Dame du Lac, Que.	37½

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54656

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

THURSDAY, the 5th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the tolls published in Tariff C.R.C. No. E-2629, filed by the Canadian National Railway Company under Section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. E-2629, approved herein, are as follows:—

Item	To	Cents per 100 pounds	
		B	N
7	Annapolis, N.S.	11.3	14.1
9	Berwick, N.S.	10.2	12.7
	Bridgetown, N.S.	11.3	14.1
13	Coldbrook, N.S.	10.2	12.7
	Digby, N.S.	11.3	14.1
	Dimock, N.S.	9.4	11.7
15	Falmouth, N.S.	8.8	11.0
17	Kennetcook, N.S.	12.4	15.5
19	Kentville, N.S.	9.5	11.9
	Kingston, N.S.	10.2	12.7
29	Port Williams, N.S.	9.5	11.9
31	St. Bernard, N.S.	12.0	15.0
	Saulnierville, N.S.	12.0	15.0
37	Weymouth, N.S.	12.0	15.0
	Windsor, N.S.	7.2	9.0
39	Wolfville, N.S.	9.5	11.9

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54657

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

THURSDAY, the 5th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the tolls published in items numbered 970 and 1000 of Supplement No. 13 to Tariff C.R.C. No. E-2564, filed by the Canadian National Railway Company under Section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act; the Temiscouata Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportions of the normal tolls for the purpose of reimbursement under sub-

section 3 of Section 9 of the said Act, on traffic carried under the said items numbered 970 and 1000 of Supplement No. 13 to Tariff C.R.C. No. E-2564, approved herein, are as follows:—

Item	From	To	Cents per 100 pounds	
			B	N
970	Dartmouth, N.S. }	Cabano, Que. }	10	12½
	Halifax, N.S. }			
	Saint John, N.B. }			
1000	Dartmouth, N.S. }	Cabano, Que. }	10	12½
	Halifax, N.S. }	Notre Dame du Lac, Que. . . }	10	12½
	Saint John, N.B. }	Notre Dame du Lac, Que. . . }	10	12½

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54643

In the matter of the Order of the Board No. 54623, dated August 4, 1937, permitting the Canadian National Railways, hereinafter called the "Applicant Company," to reissue its tariff C.R.C. No. W-1231, effective August 23, 1937, for the reasons set out in the said order.

File No. 27612.160

FRIDAY, the 6th day of August, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.
J. A. STONEMAN, Commissioner.

Upon its appearing that Agent Henry has received permission from the Interstate Commerce Commission to republish, on short notice, the rates from origin points to New Westminster and Vancouver and the same will be effective August 11, 1937, and it being desired by the Applicant Company to reissue its tariff C.R.C. No. W-1231 effective upon the same date so as to maintain a parity of rates.

It is Ordered: That the Applicant Company be, and it is hereby, permitted to reissue its tariff C.R.C. No. W-1231 effective August 11, 1937, and publish, in lieu of the present rates, amended proportional rates producing the same combination as the through rates published in Agent Henry's tariff C.R.C. No. 170, or reissues thereof, and Order No. 54623, dated August 4, 1937, is hereby amended accordingly.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54660

In the matter of the application of the Vancouver, Victoria and Eastern Railway and Navigation Company, under Section 323 of the Railway Act, for approval of by-laws passed June 26, 1937, authorizing the General Freight Agent and the Passenger Traffic Manager of the Company to prepare and issue tariffs of the tolls to be charged in respect of the railway owned and operated by the company and to submit the same to, and file the same with, the Board.

File No. 1296

SATURDAY, the 7th day of August, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.
J. A. STONEMAN, Commissioner.

Upon the report and recommendation of the Chief Traffic Officer of the Board.

It is Ordered:

1. That the said by-laws of the Vancouver, Victoria and Eastern Railway and Navigation Company, on file with the Board under File No. 1296, be, and they are hereby, approved; and

2. That Orders numbered 276, 803, 1675, 14364, 15144, 24972, 42472, dated December 16, 1904, December 13, 1905, September 15, 1906, July 20, 1911, October 18, 1911, May 10, 1916, and April 13, 1929, respectively, made herein, be, and they are hereby, rescinded.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54667

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 9th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

It is Ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act, namely:—

Supplement No. 39 to Tariff C.R.C. No. E-1258.
Supplement No. 36 to Tariff C.R.C. No. E-1906.
Supplement No. 10 to Tariff C.R.C. No. E-2448.
Supplement No. 8 to Tariff C.R.C. No. E-2526.
Supplement No. 17 to Tariff C.R.C. No. E-2564.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54668

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 9th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. E-1239, filed by the Canadian National Railway Company under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Temiscouata Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportions of the normal tolls, for the purpose of reimbursement under sub-

section 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. E-1239, approved herein, are as follows:—

To	Cents per 100 pounds	
	B	N
Beauharnois, Que.		6.9
Belleville, Ont.		6.5
Bromptonville, Que.		6.9
Camden East, Ont.		6.3
Campbellford, Ont.		6.9
Chicoutimi, Que.		6.9
Cornwall, Ont.		6.9
Crabtree, Que.		6.9
Donnacoona, Que.	5.5	6.9
Dundas, Ont.		6.8
Frankford, Ont.		6.5
Georgetown, Ont.		6.9
Glen Miller, Ont.		6.5
Grand'Mere, Que.		6.9
Hawkesbury, Ont.		6.9
Joliette, Que.		6.9
Jonquiere, Que.		6.9
Kingsey, Que.		6.9
Lachute, Que.		6.9
Merritton, Ont.		6.8
Mille Roches, Ont.		6.9
Montreal, Que.		6.9
Ottawa, Ont.		6.9
Portneuf, Que.		6.9
St. Andrews, East, Que.		6.9
St. Basile, Que.		6.9
St. Catharines, Ont.		6.9
St. Jerome, Que.	5.5	6.9
St. Raymond, Que.		6.9
Sault Ste. Marie, Ont.		6.9
Shawinigan Falls, Que.		6.9
Sherbrooke, Que.		6.9
Strathcona, Ont.		6.3
Thorold, Ont.		6.8
Toronto, Ont.		6.9
Trenton, Ont.		6.4
Welland, Ont.		6.8
Windsor Mills, Que.		6.9

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54669

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act

File No. 34822.13

MONDAY, the 9th day of August, A.D. 1937.

S. J. McLEAN, Assistant Chief Commissioner.

J. A. STONEMAN, Commissioner.

The Board Orders:

1. That the toll published in Supplement No. 2 to tariff C.R.C. No. 1050 to Truro, N.S., filed by the Dominion Atlantic Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of Subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll for the purpose of reimbursement under Subsection 3 of Section 9 of the said Act, on traffic carried under the said Supplement No. 2 to tariff C.R.C. No. 1050 to Truro, N.S., approved herein, is 19½ cents per 100 pounds.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54670

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

MONDAY, the 9th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

The Board Orders:

1. That the tolls published in item No. 250B of Supplement No. 13 to tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls for the purpose of reimbursement under Subsection 3 of Section 9 of the said Act, on traffic carried under the said item No. 250B of Supplement No. 13 to tariff C.R.C. No. E-4808, approved herein, are as follows:—

To	Cents per 100 pounds
Fort William, Ont.	58
Port Arthur, Ont.	58
Quebec, Que.	55
West Fort William, Ont.	58

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER NO. 54658

In the matter of the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company," for permission to file, on less than statutory notice, a supplement to its tariff C.R.C. No. W-2987, to correct a clerical error.

File No. 27612.161

TUESDAY, the 10th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

Whereas the Applicant Company's tariff C.R.C. No. W-2987 publishes car-load rates on petroleum and petroleum products on the basis of the 5th class distributing class rates;

Whereas in Supplement No. 38 of the said tariff, through a clerical error, rates were published from Expanse, Sask., to Kyle and Stewart Valley, Sask., of 39 cents and 33 cents, respectively, and the correct 5th class distributing class rates for the distances involved are 45 cents and 35 cents, respectively, and the Applicant Company desires to establish the correct rates on less than statutory notice;

It is Ordered: That the Applicant Company be, and it is hereby, granted leave to file, on one day's notice, supplement to its tariff C.R.C. No. W-2987 to correct the said error.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54679

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 10th day of August, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the toll published in Item No. 275 of Supplement No. 8 to Tariff C.R.C. No. E-2526 filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Item No. 275 of Supplement No. 8 to Tariff C.R.C. No. E-2526, approved herein, is B—2½, N—2¾.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER NO. 54682

In the matter of the application of the Hull Electric Company, under Section 323 of the Railway Act, for the approval of By-law passed on August 4, 1937, authorizing the Vice President and General Manager of the Company to prepare and issue tariffs of the tolls to be charged in respect of the railway owned and operated by the Company, and to submit the same to and file the same with the Board.

File No. 21781

FRIDAY, the 13th Day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

Upon the report and recommendation of the Chief Traffic Officer of the Board.

It is Ordered:

1. That the said By-law of the Hull Electric Company on file with the Board under file No. 21781 be, and it is hereby, approved.

2. That Order No. 18926, dated March 27, 1913, made herein, be, and it is hereby, rescinded.

H. GUTHRIE,

Chief Commissioner.

ORDER NO. 54687

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12.

MONDAY, the 16th day of August, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in item No. 247 of 6th revised page 23, and item No. 666 of 5th revised page 39 to Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 247 of 6th revised page 23, and item No. 666 of 5th revised page 39 to Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item	Cents per ton of 2,000 pounds
247	2.95
Cents per 100 pounds	
666 To Edmundston, N.B.	14
To Woodstock, N.B.	10

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54693

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 17th day of August, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

It is ordered: That the tolls published in the following tariffs, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 35 to Tariff C.R.C. No. E-1974
 Supplement No. 34 to Tariff C.R.C. No. E-2248
 Supplement No. 20 to Tariff C.R.C. No. E-2444
 Supplement No. 18 to Tariff C.R.C. No. E-2564
 Supplement No. 2 to Tariff C.R.C. No. E-2629
 Tariff C.R.C. No. E-2647
 Tariff C.R.C. No. E-2651

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54685

In the matter of the application of G. C. Ransom, Agent on behalf of the carriers, for permission to issue Supplement No. 12 to Canadian Freight Association Tariff C.R.C. No. 851, effective on ten days' notice, but not earlier than September 1, 1937.

File No. 27612.162

TUESDAY, the 17th day of August, A.D., 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

Whereas Canadian Freight Association Tariff C.R.C. No. 851 publishes import class rates from various ports to destinations in the United States and it is desired to issue Supplement No. 12 thereto, effective September 1, 1937, to make change in routing on page 268 of the tariff as shown in Exhibit "A" filed with the Board to comply with the circuitry limitations in Interstate Commerce Commission Fourth Section Order No. 12130, which order calls for an effective date of September 1, 1937; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That Canadian Freight Association Tariff C.R.C. No. 851 be amended by the issuance of a supplement thereto effective on ten days' notice, but not earlier than September 1, 1937, in accordance with the change shown in Exhibit "A," subject to the granting of similar authority by the Interstate Commerce Commission.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54701

In the matter of the application of the Express Traffic Association of Canada, under Sections 322 and 360 of the Railway Act, for approval of proposed Supplement No. 9 to Express Classification for Canada No. 8, on file with the Board under file No. 4397.121.

TUESDAY, the 17th day of August, A.D., 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

Whereas notice has been given by the Express Traffic Association of Canada in the *Canada Gazette*, as required by section 322 of the Railway Act, and copies of the said supplement have been furnished to the parties named in the General Orders of the Board Nos. 271, 348, 353, 469 and 471, with the request that their objections, if any, be filed with the Board within thirty days, no one offering any objection; and upon the recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said Supplement No. 9 to Express Classification for Canada No. 8, on file with the Board under file No. 4397.121, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR JUNE, 1937

Railway Accidents.. . . . 186 with 17 killed and 197 injured
 Railway Accidents at Highway Crossings.. . . 22 with 19 killed and 26 injured

	208	36	223
		Killed	Injured
Passengers.. . . .		35	
Employees.. . . .	2	141	
Others.. . . .	34	47	
	36	223	

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Number of
Accidents

NOVA SCOTIA

- 1 Automobile—Stalled on crossing. Licence N.S. 80-232.
- 1 Automobile—Drove on crossing in front of approaching train and was struck. Licence N.B. 23-009.
- 1 Auto Truck—Drove on crossing in front of approaching train and was struck. Licence not given.

QUEBEC

- 1 Automobile—Ran into side of train; poor lights on auto. Licence Que. 92-601 (1936).
- 1 Automobile—Failed to stop for crossing; operator of track motor car failed to comply with railway regulations. No Licence.
- 1 Horse-drawn Vehicle—Horses became unmanageable and got on to crossing in front of train.

ONTARIO

- 1 Automobile—Stalled on crossing; struck by train. Licence Ont. 285-K-5.
- 2 Automobile—Excessive speed. Licences Ont. 8-R-966; Ont. 68-K-6.
- 1 Automobile—Failed to exercise proper precaution where view satisfactory. Licence Ont. 3-P-278.
- 2 Automobile—Ran into side of train. Licences Ont. 9-R-321; Ont. 8-V-876.
- 1 Automobile—Attempted to beat train over crossing. Licence Ont. 781-C-6.
- 1 Automobile—Disregarded bell and wig-wag signals; drove on to crossing in front of approaching train. Licence Ont. 232-R-4.
- 1 Automobile—Driver failed to heed automatic bell and wig-wag signal; ran into side of train. Licence Ont. 727-P-7.
- 2 Auto Truck—Failed to observe approaching train; drove on to track in front of same. Licence plate not found; Ont. 31-739-C.

MANITOBA

- 1 Automobile—Driver stepped on accelerator instead of brake and drove on to crossing in front of train. Licence Man. 42-549.
- 1 Auto Truck—Struck track motor car. Licence Man. PSV. 384.

SASKATCHEWAN

- 1 Automobile—Failed to observe approaching train. Licence Sask. 66-177.

ALBERTA

- 1 Automobile—Drove on to track in front of train and struck. Licence Alta. 40032.
- 1 Auto Truck—Excessive speed of auto; operator of track motor car failed to comply with company's Regulations. Licence Alta. C-5-568.

Of the 22 accidents at highway crossings, 19 occurred at unprotected crossings, and 3 at protected crossings. Fifteen of the accidents occurred during the daylight hours, and seven at night.

OTTAWA, August 12, 1937.

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The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII Ottawa, September 15, 1937 No. 13

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

ORDER No. 54697

*In the matter of tariffs and supplements to tariffs, filed under the provisions of
the Maritime Freight Rates Act.*

File No. 34822.12

TUESDAY, the 17th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 305A of Supplement No. 14 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 305A of Supplement No. 14 to Tariff C.R.C. No. E-4808, approved herein, is 5 $\frac{3}{4}$ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54699

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 17th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. 1053 filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. An the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1053, approved herein, are as follows:—

Item 5	From	Cents per 100 pounds 4th class rates covered by previous order or orders	
15	Fenerty's Siding, N.S.	7½	
	Mount Uniacke, N.S.	9½	
	Windsor, N.S.	10	
	Mosherville, N.S.	10½	
	Kennetcook, N.S.	12½	
20	Lower Truro, N.S.	13	
	Hantsport, N.S.	10½	
	Port Williams, N.S.	11½	
	Mill Village, N.S.	12½	
	Kingsport, N.S.	12½	
25	Grafton, N.S.	14	
	Weston, N.S.	14½	
	Berwick, N.S.	12½	
	Kingston, N.S.	14	
	Middleton, N.S.	15	
30	Paradise, N.S.	15	
	Bridgetown, N.S.	15½	
	Annapolis, N.S.	15½	
	Hebron, N.S.	17½	
	Yarmouth, N.S.	18	
		Billed	Normal
	Dominion Atlantic Railway Company's proportions....	3·8	4·7

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54700

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 17th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.**The Board orders:*

1. That the toll published in item No. 225-B of Supplement No. 37 to Tariff C.R.C. No. 906 from Isenor's Siding, N.S., filed by the Dominion Atlantic Rail-

way Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 225-B of Supplement No. 37 to Tariff C.R.C. No. 906, from Isenor's Siding, N.S., approved herein, is 4 cents per 100 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54702

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 17th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items Nos. 9, 13A, 17, 19, 21, 25, and 33 of Supplement No. 2 to Tariff C.R.C. No. E-2629, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items Nos. 9, 13A, 17, 19, 21, 25, and 33 of Supplement No. 2 to Tariff C.R.C. No. E-2629, approved herein, are as follows:—

Item	To	Cents per 100 pounds	
		Billed	Normal
9	Brazil Lake, N.S.	12	15
13A	Dimock's, N.S.	9	11.2
17	Hebron, N.S.	12	15
	Hectanooga, N.S.	12	15
19	Lake Annis, N.S.	12	15
21	Meteghan, N.S.	12	15
	Maxwellton, N.S.	12	15
25	Norwood, N.S.	12	15
	Ohio, N.S.	12	15
33	Sigogne, N.S.	12	15

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54705

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 18th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 445 of second revised page 29 to Tariff C.R.C. No. E-4757 to Caron Brook, N.B., filed by the Canadian Pacific

Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Temiscouata Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 445 of second revised page 29 to Tariff C.R.C. No. E-4757 to Caron Brook, N.B., approved herein, is

	Cents per 100 pounds
Billed	4½
Normal	5½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54707

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 18th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in item No. 445 of second revised page 29 and item No. 1180 of second revised page 53 to Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 445 of second revised page 29 and item No. 1180 of second revised page 53 to Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item	Cents per 100 pounds			
445 To Caron Brook, N.B.	17½			
1180				
	From		From	
	Annapolis Royal, N.B.		Saint John, N.B.	
	Boxes or		Boxes or	
To	Crates	Bundles	Crates	Bundles
Cobalt, Ont.	163	245	132	211½
Cochrane, Ont.	175	262½	144	229½
Haileybury, Ont.	163	245	132	211½
Iroquois Falls, Ont.	175	262½	144	229½
New Liskeard, Ont.	169½	254	138½	221
Timmins, Ont.	175	262½	144	229½

One and one-half cent per 100 pounds to be deducted account of water movement on traffic ex Annapolis Royal.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54708

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

THURSDAY, the 19th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 655 of Supplement No. 17 to Tariff C.R.C. No. E-2564, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and it is hereby, approved; the Canada and Gulf Terminal Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Canada and Gulf Terminal Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 655 of Supplement No. 17 to Tariff C.R.C. No. E-2564, approved herein, is

	Cents per 100 pounds
Billed	4
Normal	5

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54714

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 20th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

It is ordered:

1. That the tolls published in Tariff C.R.C. No. 1056, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1056, approved herein, are as follows:—

	Cents per barrel	
	Billed	Normal
Ellerhouse, N.S.	17	20½
Newport, N.S.		
Windsor, N.S.		
Hantsport, N.S.	17	20½
Avonport, N.S.		
Port Williams, N.S.		
Kentville, N.S.	17½	21
	18	21½

	Cents per barrel	
	Billed	Normal
Coldbrook, N.S. }		
Berwick, N.S. }	20	24
Aylesford, N.S. }		
Kingston, N.S. }	20½	25
Wilmot, N.S. }		
Annapolis, N.S. }	22	26½
Clementsport, N.S. }		
Digby, N.S. }	24	29½
North Range, N.S. }		
Yarmouth, N.S. }	27½	33½
Brooklyn, N.S. }		
Mosherville, N.S. }	17½	21
Clarksville, N.S. }		
Kennetcook, N.S. }	18	21½
South Maitland, N.S. }		
Lower Truro, N.S. }	20½	25
Mill Village, N.S. }		
Kingsport, N.S. }	20	24
Billtown, N.S. }		
Grafton, N.S. }	20	24
Somerset, N.S. }		
Weston, N.S. }	20½	25

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54713

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 21st day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in section 2 of Supplement No. 11 to Tariff C.R.C. No. 875, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said section 2 of Supplement No. 11 to Tariff C.R.C. No. 875, approved herein, are as follows:—

From	Cents per barrel
Ellerhouse, N.S. }	
Newport, N.S. }	25½
Windsor, N.S. }	
Hantsport, N.S. }	25
Avonport, N.S. }	
Port Williams, N.S. }	26
Kentville, N.S. }	26½
Coldbrook, N.S. }	
Berwick, N.S. }	29
Aylesford, N.S. }	
Kingston, N.S. }	30

From	Cents per barrel
Wilmot, N.S.	31½
Annapolis Royal, N.S.	
Clementsport, N.S.	
Digby, N.S.	34½
North Range, N.S.	
Yarmouth, N.S.	38½
Brooklyn (Hants County), N.S.	
Mosherville, N.S.	26
Clarksville, N.S.	
Kennetcook, N.S.	26½
South Maitland, N.S.	
Lower Truro, N.S.	30
Mill Village, N.S.	
Kingsport, N.S.	29
Billtown, N.S.	
Grafton, N.S.	29½
Somerset, N.S.	
Weston, N.S.	30

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54727

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

SATURDAY, the 21st day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

It is ordered:

1. That the tolls published in Supplement No. 16 to Tariff C.R.C. No. E-4324, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 16 to Tariff C.R.C. No. E-4324, approved herein, are those shown for rate basis given below and published in Canadian Pacific Railway Supplement No. 47 to Tariff C.R.C. No. E-3224:—

Index To	Rate Bases From	
	Middleton, N.S. Bridgetown, N.S.	Yarmouth, N.S.
566 Trois Rivières, Que.	64	70
626 Shawinigan Falls, Que.		
627 Grand Mere, Que.		
629 Cap de la Madeleine, Que.		

One and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54709

In the matter of the Order of the Board No. 54423, dated June 11, 1937, permitting F. W. Thompson, agent on behalf of the carriers, to postpone the effective date of his Tariff C.R.C. No. 328, publishing rates from points in Western Canada to Eastern United States destinations, until September 1, 1937, pending conference with Canadian packing houses concerning the rates shown therein in which they are interested.

File No. 27612.155

TUESDAY, the 24th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

Upon its appearing that the conference between shippers and railways has not been concluded, and it is desired to further postpone the effective date of the said tariff until October 1, 1937, and the Interstate Commerce Commission has authorized such postponement on five days' notice; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said F. W. Thompson be, and he is hereby, granted leave to publish, on five days' notice, a supplement to his Tariff C.R.C. No. 328 postponing the effective date thereof until October 1, 1937.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54728

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 24th day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 36 to Tariff C.R.C. No. E-1974.

Supplement No. 21 to Tariff C.R.C. No. E-2444.

Supplement No. 9 to Tariff C.R.C. No. E-2526.

Supplement No. 19 to Tariff C.R.C. No. E-2564.

Supplement No. 20 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 564

In the matter of the application of the Railway Association of Canada on behalf of the railway companies hereinafter particularly referred to, under Section 348 of the Railway Act, for an Order prescribing the attached terms and conditions as the terms and conditions upon which persons shall be carried on passes of the said companies.

File No. 496.43

FRIDAY, the 20th day of August, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon reading the application and what is alleged in support thereof,—

It is ordered:

1. That the terms and conditions upon which persons holding passes shall be carried on the railways hereinafter mentioned shall be those which are set forth in the schedule annexed hereto; the names of such companies being as follows:—

Algoma Central and Hudson Bay Railway,
Canadian National Railways,
Canadian Pacific Railway,
Dominion Atlantic Railway,
Grand River Railway,
Lake Erie and Northern Railway,
London and Port Stanley Railway,
Maritime Coal, Railway and Power Company,
Napierville Junction Railway,
Nipissing Central Railway,
Northern Alberta Railways,
Quebec Central Railway,
Temiscouata Railway,
Toronto, Hamilton and Buffalo Railway,
Wabash Railway,
White Pass and Yukon Route.

2. That General Orders Nos. 513 and 513-A, dated respectively June 1, 1933, and June 16, 1933, so far as they apply to the said railways, be, and they are hereby, rescinded; provided, however, that the rescission of such orders shall not be deemed to affect the validity of the terms and conditions authorized by the said orders on or in respect of annual or other term or trip passes issued before and used after the effective date of this order until the expiration or other termination thereof.

3. That the provisions of this order become effective as, of and from January 1, 1938.

4. That this order together with the terms and conditions be published for three weeks in the *Canada Gazette* pursuant to the provisions of section 50 of the Railway Act.

H. GUTHRIE,
Chief Commissioner.

CONDITIONS

Not transferable; revocable at any time; void if altered or presented by other than a person designated herein.

The user assumes all risk of death, injury, loss or damage to the user's person or property, whether due to negligence or otherwise, and neither the user nor any other person whosoever shall have any right or claim against the issuing company, its servants or agents, or any company or railway on whose lines or trains this pass may be honoured, or its servants or agents, in respect of or arising out of any such death, injury, loss or damage.

This pass shall be used only in accordance with the law. I hereby declare that each of the persons designated herein is entitled by law to receive free transportation.

.....

. Holder.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 54641. Aug. 4—Declaring the C.P.R. crossing of Bridge St., Almonte, Ont., protected to Board's satisfaction.
- 54642. Aug. 4—Declaring the C.N.R. crossing of 50th Street, Edmonton, Alta., protected to Board's satisfaction.
- 54643. Aug. 6—Authorizing the C.N.R. to reissue its Tariff C.R.C. No. W-1231 effective Aug. 11, 1937.
- 54644. Aug. 5—Authorizing the Dept. of Highways for Province of Ontario to construct a subway under the C.P.R. at mileage 13·70, MacTier Subdv., Township of Vaughan.
- 54645. Aug. 4—Authorizing the C.P.R. to construct a branch line to serve National Paving & Construction Co., Ltd., at mileage 86·46, Lachute Subdv., Quebec.
- 54646. Aug. 4—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54647. July 30—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under sec. 9.
- 54648. Aug. 5—Authorizing the payment of seventy per cent of the additional cost of construction of subway under the C.P.R., Port Arthur, Ont., and the closing of a level crossing out of the fund appropriated for the purpose under Dept. of Transport Vote No. 357.
- 54649. Aug. 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under sec. 9.
- 54650. Aug. 5—Authorizing the C.N.R. to increase the speed of trains over highway crossing at mileage 87·5, Murray Bay Subdv., Quebec.
- 54651. Aug. 5—Authorizing the C.N.R. to increase the speed of trains over highway crossing at mileage 63·1, Danville Subdv., Quebec.
- 54652. Aug. 6—Authorizing the C.N.R. to cross Bay Ave., Kelowna, B.C., with proposed spur to serve Modern Foods, Ltd.
- 54653. Aug. 6—Approving plan showing change in protection at 93rd St. crossing, Edmonton, Alta. (C.N.R.).
- 54654. Aug. 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplements to tariffs filed by the C.P.R. under sec. 9.
- 54656. Aug. 5—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff and supplement to tariff filed by the C.N.R. under sec. 3.
- 54657. Aug. 10—Authorizing the C.P.R. to file on one day's notice a supplement to its Tariff C.R.C. No. W-2987 to correct error.
- 54659. Aug. 7—Declaring the third crossing south of Thetford Mines Station, Que., protected to the Board's satisfaction (Quebec Central Railway).
- 54660. Aug. 7—Approving by-laws of the Vancouver, Victoria & Eastern Railway & Navigation Co. *re* officials authorized to issue tariffs.
- 54661. Aug. 9—Recommending to the Governor-in-Council for sanction an agreement between the C.P.R. and the Atlantic and Northwest Railway Co.
- 54662. Aug. 6—Authorizing the National Harbour Board to appoint watchman at crossing of Heatley Ave. by the C.P.R. and National Harbour Board tracks.
- 54663. Aug. 7—Amending Order No. 47259, dated August 25, 1931, authorizing City of Vancouver to construct highway crossing over the C.P.R. north of Powell St., to provide that National Harbours Board maintain watchman at certain hours.
- 54664. Aug. 6—Authorizing the Dept. of Highways for Ontario to construct level crossing over C.N.R. three miles east of Jarvis.
- 54665. July 22—Amending Order No. 53989, dated February 13, 1937, *re* improvement in view at St. Lawrence St. crossing (C.N.R.), Levis, Que., to provide for the railway taking expropriation proceedings if necessary, etc.
- 54666. Aug. 9—Authorizing the Dept. of Highways for Ontario to construct a grade level crossing over the C.N.R. in Lot 3, Concession 3, Township of Garson, District of Sudbury.
- 54667. Aug. 9—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54668. Aug. 9—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54670. Aug. 9—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under sec. 9.
- 54671. Aug. 11—Declaring the C.N.R. crossing of Carling Ave., Ottawa, protected to the Board's satisfaction.
- 54672. Aug. 11—Declaring the C.N.R. crossing four miles north of Clinton Junction, Ont., protected to Board's satisfaction.

- 54673. Aug. 11—Declaring the C.N.R. crossing of Angeline St., Lindsay, Ont., protected to Board's satisfaction.
- 54674. Aug. 11—Declaring the Lake Erie & Northern Railway crossing one mile north of Paris Station, Ont., protected to Board's satisfaction.
- 54675. Aug. 11—Declaring the C.P.R. crossing at mileage 117-5, Indian Head Subdv., Sask., protected to Board's satisfaction.
- 54676. Aug. 11—Declaring the Sydney & Louisburg Railway crossing first east of Caledonia switch, at Caledonia, N.S., protected to Board's satisfaction.
- 54677. Aug. 11—Authorizing the C.N.R. to operate over car ferry slip at Peachland, B.C.
- 54678. Aug. 10—Authorizing the National Harbour Board to construct jointly with the C.P.R. extension to track No. 12½, Ballantyne Pier Yard, Vancouver, Terminal Railway, to connect with adjacent track of the C.P.R. at Vancouver, B.C.
- 54679. Aug. 10—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54680. Aug. 12—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Three Rivers Subdv.
- 54681. Aug. 12—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Lachute Subdv., Que.
- 54682. Aug. 13—Approving the by-law of the Hull Electric Company authorizing certain officials to issue tariffs.
- 54683. Aug. 12—Authorizing the Toronto Harbour Commissioners to construct siding and connection, near Carlaw Ave., Toronto, Ont.
- 54684. Aug. 12—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Ste. Agathe Subdv., Que.
- 54685. Aug. 17—Ordering C.F.A. tariff No. 851 amended by the issuance of a supplement effective on ten days' notice, but not earlier than September 1.
- 54686. Aug. 16—Increasing the penalty for each day after October 1 that the Municipality of the Parish of Ste. Therese de Blainville shall be in default in complying with requirements of Order No. 54616, dated July 29, 1937.
- 54687. Aug. 16—Approving under the Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in items to tariff filed by the C.P.R. under sec. 9.
- 54688. Aug. 13—Requiring the C.N.R. to continue protection by gates at crossing of Broadway St., Wyoming, Ont.
- 54689. Aug. 16—Extending the time for re-establishing train service between International Boundary and Princeton, B.C. (V.V. & E. Rly. & Nav. Co.).
- 54690. Aug. 16—Authorizing the Town of Pointe-aux-Trembles, Que., to construct Sherbrooke St. across the C.N.R.
- 54691. Aug. 16—Approving traffic agreement between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the Township of Laird.
- 54692. Aug. 17—Authorizing the Dept. of Highways & Transportation for the Province of Saskatchewan to construct a temporary crossing at grade level of the C.N.R. near Redberry, Sask.
- 54693. Aug. 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 54694. Aug. 17—Approving plan showing proposed changes in signal operation at Allenby Junction, Que.
- 54695. Aug. 17—Declaring the C.P.R. crossing first west of Thamesville Station, Ont., protected to Board's satisfaction.
- 54696. Aug. 25—Approving Traffic Agreement between the Bell Telephone Co. and the Arundel Development Co. Ltd.
- 54697. Aug. 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in item of supplement to tariff filed by the C.P.R. under sec. 9.
- 54698. Aug. 16—Authorizing the C.P.R. to close station at Lisgar, Ont.
- 54699. Aug. 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplements and tariffs filed by the Dominion Atlantic Railway Co. under sec. 9.
- 54700. Aug. 17—Approving Supplement No. 9 to Express Classification for Canada No. 8.
- 54701. Aug. 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54702. Aug. 17—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.N.R. under sec. 3.
- 54703. Aug. 18—Authorizing the Dept. of Highways and Transportation for Province of Saskatchewan to construct public highway crossing over the C.N.R. in the NW quarter of sec. 30, 11, 26, West 2nd M.
- 54704. Aug. 18—Approving plans showing details of concrete trough structure to carry the ramp approach to City of Vancouver's new First Ave. bridge over the railway of the V.V. & E. Rly. & Nav. Co.
- 54705. Aug. 18—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in tariff filed by the C.P.R. under sec. 9.
- 54706. Aug. 19—Approving plan showing location and layout of proposed station accommodation at Lyn, Ont. (C.N.R.).

- 54707. Aug. 18—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under sec. 9.
- 54708. Aug. 19—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by C.N. Rys. under sec. 3.
- 54709. Aug. 24—Authorizing F. W. Thompson to publish on five days' notice a supplement to his Tariff C.R.C. No. 328 postponing the effective date thereof until Oct. 1, 1937.
- 54710. Aug. 21—Declaring C.P.R. crossing near Orangeville, Ont., protected to Board's satisfaction.
- 54711. Aug. 18—Directing C.P.R. to establish forthwith on coal, in carloads, from Shand, Roche Percee and Pinto, Sask., the same rates as are now in force from Bienfait and Estevan to stations on C.P.R. over 100 miles from basing points of Estevan and Bienfait.
- 54712. Aug. 21—Authorizing C.P.R. to construct extension to spur to serve Regal Coal Co., Ltd., at Kneehill, Alta.
- 54713. Aug. 21—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs and supplements filed by C.P.R. under sec. 9.
- 54714. Aug. 20—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by Dominion Atlantic Ry. under sec. 9.
- 54715. Aug. 19—Extending until Sept. 13, 1937, time within which C.N. Rys. may install bell and wigwag at first crossing west of James River Station, N.S.
- 54716. Aug. 18—Approving construction, signal appliances and general safety features of Evans Auto Railer Car and authorizing its use on C.N. Rys.
- 54717. Aug. 23—Authorizing C.N. Rys. to operate over subway on Highway No. 7 west of New Hamburg, Ont.
- 54718. Aug. 19—Relieving C.P.R. from maintaining cattle guards at mileage 2.4, 3.26 and 3.9, Newport Subd'n, Que.
- 54719. Aug. 19—Relieving C.P.R. from maintaining cattle guards at ten crossings on its Sherbrooke Subd'n, Que.
- 54720. Aug. 19—Approving agreement between Bell Telephone Co. and The Masham Telephone Co., Inc.
- 54721. Aug. 19—Approving agreement between Bell Telephone Co. and The Lyndhurst Rural Telephone Co., Ltd.
- 54722. Aug. 19—Relieving C.P.R. from maintaining cattle guards at mileage 5.6, 10.1 and 12.4, Hereford Subd'n, Que.
- 54723. Aug. 23—Authorizing C.P.R. to construct spur to serve Dominion Shuttle Co., Ltd., at Lachute, Que.
- 54724. Aug. 23—Declaring Grand River Ry. crossing of Doon Road, first south of Kitchener Station, Ont., protected to Board's satisfaction.
- 54725. Aug. 23—Authorizing C.P.R. to construct spur to serve Building Products and Coal Co. at Bird's Hill Ballast Pit, Parish of St. Paul, Man.
- 54726. Aug. 19—Relieving C.P.R. from maintaining cattle guards at five crossings on its Orford Subd'n, Que.
- 54727. Aug. 21—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by C.P.R. under sec. 9.
- 54728. Aug. 24—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by C.N. Rys. under sec. 3.
- 54729. Aug. 19—Approving agreement between Bell Telephone Co. and the Gloucester Township Telephone Co., Ltd.
- 54730. Aug. 23—Authorizing C.P.R. to construct spur to serve O'Neill European Machine Co., at LaSalle, Que.
- 54731. Aug. 26—Authorizing C.P.R. to construct extension to spur to serve Burns & Co., Ltd., at Calgary, Alta.
- 54732. Aug. 24—Declaring C.P.R. crossing, first north of wye switch at Drummondville, Que., satisfactorily protected so long as the present speed limitation of 10 miles an hour is in effect.
- 54733. Aug. 23—Dismissing application of residents of St. Robert and district, Que., to have C.N. Rys. trains between Montreal and Nicolet stop on flag at Picoudie, as in the past.
- 54734. Aug. 24—Approving Supp. 1 to agreement between Bell Telephone Co. and Comm'rs for Telephone System of Mun. of Tp. of London.
- 54735. Aug. 21—Approving plan showing resurvey of C.P.R. main line through Tp. 38. Dist. of Kenora, Ont.
- 54736. Aug. 24—Approving Supp. 2 to agreement between Bell Telephone Co. and Muskoka and Parry Sound Telephone Co., Ltd.
- 54737. Aug. 24—Approving service station contract between Bell Telephone Co. and Singer Manufacturing Co.
- 54738. Aug. 24—Approving agreement between Bell Telephone Co. and La Compagnie de Telephone St. Donat, Ltee.
- 54739. Aug. 19—Relieving C.P.R. from maintaining cattle guards at six crossings on its Adirondack Subd'n, Que.

54740. Aug. 24—Approving C.N. Rys.' proposed station building at Cape Tormentine, N.B.
54741. Aug. 27—Authorizing C.P.R. to construct spur to serve Rosedale Collieries, Ltd., at Willow Creek, Alta.
54742. Aug. 25—Approving Supp. 8 to agreement between Bell Telephone Co., and Stroud Telephone Co., Ltd.
54743. July 15—Authorizing C.N. Rys. to construct highway diversion, close a crossing and install wigwag in addition to electric bell at crossing east of Corinth Station, Ont.
54744. Aug. 25—Authorizing City of Three Rivers, Que., to construct highway crossing over C.P.R. at St. Denis street, Three Rivers, Que.
54745. Aug. 25—Authorizing C.N. Rys. to construct additional trackage to serve Provincial Paper Ltd. at Port Arthur, Ont.
54746. Aug. 27—Authorizing C.P.R. and C.N. Rys. to operate over crossing at mileage 26·6, Cornwall Subd'n, near Cornwall, Ont., without stopping.
54747. Aug. 27—Declaring C.P.R. crossing at mileage 51·25, Leduc Subd'n, Alta., protected to Board's satisfaction.
54748. Aug. 27—Authorizing C.P.R. and C.N. Rys. to operate over their crossing near l'Epiphanie, Que., without stopping.
54749. Aug. 26—Amending Order 53751, Dec. 2, 1936, by adding words "by November 1, 1938," after word "crossing" in tenth line of paragraph 1, and directing that Standard Paving Maritime Limited employ watchman at crossing while plant is in operation, and crossing be kept clear of cars for a distance of 100 feet to west.—C.N. Rys. crossing at McIntyre Lake, N.S.
54750. Aug. 27—Declaring C.N. Rys. crossing, first west of Carman Station, Man., satisfactorily protected so long as speed limitation of four miles an hour is in effect.
54751. Aug. 28—Authorizing Quebec Dept. Public Works to construct overhead bridge on proposed new Route 5, Sherbrooke-Derby Line, at Lennoxville, Que.
54752. Aug. 27—Authorizing C.P.R. to construct spur to serve Quaker Oats Co. at Saskatoon, Sask.
54753. Aug. 27—Authorizing C.N. Rys. to operate bridge over Creek Crossing, mileage 70·4, Skeena Subd'n, B.C.
54754. Aug. 28—Directing C.N. Rys. to install double bells and wigwags at crossing of Arthur Street Road (Trans-Canada Highway), in Tp. Paipoonge, mileage 16·54, Kashabowie Subd'n, Ont.
54755. Aug. 30—Rescinding Order 54276, May 10, 1937, directing City of Vernon, B.C., to erect "STOP" signs at Bernard Avenue and Schubert Street crossings, Vernon, B.C.
54756. Aug. 29—Approving New York Central Ry's. (M.C.R.) proposed extension to trackage to serve H. J. Heinz Co., at Leamington, Ont.
54757. Aug. 28—Authorizing C.P.R. to construct spur to serve Canada Cycle & Motor Co., Ltd., at Weston, Ont.
54758. Aug. 27—Authorizing C.N. Rys. to construct bridge over Kinojevis River, in Lot 6, Range 6, Tp. Joannes, Co. Temiskaming, Que.
54759. Aug. 27—Approving and authorizing clearances of six telegraph poles on C.P.R. LaSalle Loop Line at Highlands, Que.
54760. Aug. 27—Authorizing C.P.R. to construct spur to serve North West Coal Co., in NE $\frac{1}{4}$, sec. 22-2-7, W2M., mileage 150·1, Estevan Subd'n, Sask.
54761. Aug. 30—Declaring C.P.R. crossing of Long Lake Road, first west of Sudbury, Ont., protected to Board's satisfaction.
54762. Aug. 30—Declaring C.P.R. crossing, first west of Auburn Station, N.S., protected to Board's satisfaction.
54763. Aug. 31—Approving revised location of Grand River Ry. in Galt, Ont., across certain streets and C.N. Rys., also authorizing the construction of a spur to serve Babcock-Wilcox and Goldie McCulloch, Limited, at Galt.
54764. Sept. 1—Authorizing Suburban Rapid Transit Co. to shift location of diamonds at crossing over C.N. Rys. on Portage Avenue, St. James, Winnipeg, Man.
54765. Aug. 31—Authorizing Quebec Dep't Roads to construct diversion of the Mont Joli-Priceville Highway and overhead bridge over C.N. Rys. at mileage 103·1, Matapedia Subd'n, Que.
54766. Aug. 31—Authorizing Ont. Dep't Highways to reconstruct subway under C.N. Rys. on Highway No. 2, Lot 15, Range, Tp. Eckfrid, Co. Middlesex, Ont.
54767. Aug. 31—Authorizing C.N. Rys. to move existing crossing at Yarbo, Sask., to a point 150 feet west.
54768. Aug. 31—Requiring County of Victoria, Ont., to improve sight lines at highway crossing over C.N. Rys. near Grass Hill, Ont.
54769. Aug. 31—Directing C.N. Rys. to install automatic bell and wigwag at crossing at Downer's Corners, Ont.
54770. Aug. 31—Directing C.P.R. to install double bells and wigwags at crossing 30 feet south of Pamdenec Station, N.B.



The Board of Railway Commissioners for Canada.

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, October 1, 1937

No. 14

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

ORDER No. 54777

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 28th day of August, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1040 filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1040, approved herein, are as follows:—

Item		Cents per 100 pounds
15	From Bridgetown, N.S.	24
	Lakeville, N.S.	23½
	Port Williams, N.S.	18½
25	. . . . .	21
26	To Saint John, N.B. B-6·4	N-7·6
30	. . . . .	21½
35	. . . . .	16
40	. . . . .	16½
45	. . . . .	26½
50	. . . . . B-7·2	N-8·8
60	5 tons or over	40
	Under 5 tons	52
61	To Saint John, N.B. B-13·1	N-14·9
75	. . . . .	35½
80	To Saint John, N.B. B-9·9	N-12·4

Item		Cents per 100 pounds	
85	L.C.L.	56	
	C.L.	20	
90	C.L.	21 $\frac{1}{2}$	
	5 tons or over	24 $\frac{1}{2}$	
	Under 5 tons	30 $\frac{1}{2}$	
92	.. . . .	10	
95	L.C.L.	30 $\frac{1}{2}$	
	C.L.	20	
100	L.C.L.	30 $\frac{1}{2}$	
	C.L.	15 $\frac{1}{2}$	
105	.. . . .	30 $\frac{1}{2}$	
125	.. . . .	37	
130	.. . . .	15 $\frac{1}{2}$	
135	.. . . .	15 $\frac{1}{2}$	
145	.. . . .	14	
150	From Brazil Lake, N.S.	24 $\frac{1}{2}$	
	Clarksville, N.S.	12	
155	.. . . .	11	
		Cents per barrel	
		L.C.L.	C.L.
160	From Windsor, N.S.	29 $\frac{1}{2}$	21
	Mosherville, N.S.	31 $\frac{1}{2}$	23
	Kennetcook, N.S.	34	26
165	Burtons, N.S.	36	28
	Clifton, N.S.	38	29 $\frac{1}{2}$
	Lower Truro, N.S.	38	26
	Truro, N.S.	30 $\frac{1}{2}$	22
	Hantsport, N.S.	30	22 $\frac{1}{2}$
170	Port Williams, N.S.	31 $\frac{1}{2}$	23
	Kentville, N.S.	34	26
	Kingsport, N.S.	36	28
	Grafton, N.S.	36	28
	Weston, N.S.	38	29 $\frac{1}{2}$
175	Berwick, N.S.	36	28
	Kingston, N.S.	38	29 $\frac{1}{2}$
	Annapolis Royal, N.S.	40 $\frac{1}{2}$	32 $\frac{1}{2}$
	Digby, N.S.	43	34
	Yarmouth, N.S.	43 $\frac{1}{2}$	34 $\frac{1}{2}$
Item		Cents per 100 pounds	
180	.. . . .	8 $\frac{1}{2}$	
185	From Mount Uniacke, N.S.	11 $\frac{1}{2}$	
	Hurtville, N.S.	14	
	Dimock's, N.S.	14 $\frac{1}{2}$	
	Mosherville, N.S.	15	
	Clarksville, N.S.	16 $\frac{1}{2}$	
190	Doddridge, N.S.	18	
	Green Oaks, N.S.	19	
	Clifton, N.S.	19 $\frac{1}{2}$	
	Lower Truro, N.S.	18	
	Truro, N.S.	12 $\frac{1}{2}$	
195	Falmouth, N.S.	14 $\frac{1}{2}$	
	Horton Landing, N.S.	15	
	New Minas Sdg., N.S.	15	
	Hillaton, N.S.	17	
	Kingsport, N.S.	17 $\frac{1}{2}$	
200	Turner Road, N.S.	18	
	Chute Road, N.S.	19	
	Weston, N.S.	19 $\frac{1}{2}$	
	Waterville, N.S.	17	
	Auburn, N.S.	19	
205	Ruggles Road, N.S.	19 $\frac{1}{2}$	
	Tupperville, N.S.	18 $\frac{1}{2}$	
	Deepbrook, N.S.	22	
	North Range, N.S.	23 $\frac{1}{2}$	
210	Church Point, N.S.	25	
	Lake Annis, N.S.	25 $\frac{1}{2}$	
	Hebron, N.S.	26	
215	Grand Pre, N.S.	7 $\frac{1}{2}$	
	Wolfville, N.S.	8 $\frac{1}{2}$	
	Kentville, N.S.	10	
	Berwick, N.S.	10	
	Kingsport, N.S.	10	

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54775

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 31st day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 11 to Tariff C.R.C. No. E-2448.

Supplement No. 21 to Tariff C.R.C. No. E-2564.

Supplement No. 22 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54776

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.17

TUESDAY, the 31st day of August, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 43, filed by the Cumberland Railway and Coal Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 43, approved herein, are as follows:—

To	Cents per 100 pounds
Springhill, N.S.	6½
Parrsboro, N.S.	12½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54794

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 2nd day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 148 of Supplement No. 3 to Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 148 of Supplement No. 3 to Tariff C.R.C. No. 1040, approved herein, is 47½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54803

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 4th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 11 to Tariff C.R.C. No. 194, filed by the Fredericton and Grand Lake Coal and Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 11 to Tariff C.R.C. No. 194, approved herein, are as follows:—

Index No.		Cents per ton of 2,000 pounds
4805	To Hawkesbury, Ont.	3.50
85	East Angus, Que.	2.75
100	Dudswell, Que.	2.70

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54808

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 8th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 15 to Tariff C.R.C. No. E-1261.

Supplement 22 to Tariff C.R.C. No. E-2444.

Supplement 23 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54811

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.15

THURSDAY, the 9th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Supplement No. 12 to Tariff C.R.C. No. 194, filed by the Fredericton and Grand Lake Coal and Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subject 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 12 to Tariff C.R.C. No. 194, approved herein, is \$3.50 per ton of 2,000 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54812

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.17

THURSDAY, the 9th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 44, filed by the Cumberland Railway and Coal Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 44, approved herein, are as follows:—

Miles	Cents per 100 pounds
Not over 5	4½
10	5
20	5½
30	6½
40	7½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54845

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 13th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published to Kilburn, N.B., in Supplement No. 9 to Tariff C.R.C. No. E-1543, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Canadian Pacific Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Canadian Pacific Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic to Kilburn, N.B., carried under the said Supplement No. 9 to C.R.C. No. E-1543, approved herein, is

	Cents per 100 pounds
Billed	8
Normal	10

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54824

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

TUESDAY, the 14th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published to Tracadie, N.B., in Supplement No. 2 to Tariff C.R.C. No. 743, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Temiscouata Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic to Tracadie, N.B., carried under the said Supplement No. 2 to Tariff C.R.C. No. 743, approved herein, is

	Cents per 100 pounds
Billed	6
Normal	7½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54825

In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 14th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 64 to Tariff C.R.C. No. E-1244.
Supplement No. 35 to Tariff C.R.C. No. E-2248.
Supplement No. 24 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54828

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 17th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in Item No. 346 of Supplement No. 17 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 346 of Supplement No. 17 to Tariff C.R.C. No. 1006, approved herein, is 34½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54830

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822-13

FRIDAY, the 17th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 111B from Round Hill, N.S., in Supplement No. 17 to Tariff C.R.C. No. 907, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 111P from Round Hill, N.S., in Supplement No. 17 to Tariff C.R.C. No. 907, approved herein, is 5¼ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54831

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822-13

FRIDAY, the 17th day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in item No. 140A, of Supplement No. 1 to Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Item No. 140A of Supplement No. 1 to Tariff C.R.C. No. 1040, approved herein, are as follows:—

	Cents per 100 pounds
Under 5 tons	46
5 tons or over	36
Carload minimum 20,000 pounds	23
Carload maximum 40,000 pounds	12½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54844

In the matter of the application of the Canadian Pacific Express Company for permission to handle cartons of "Strike Anywhere" matches by express on passenger trains.

File No. 1717.1.3

MONDAY, the 20th day of September, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon reading the application and the submissions filed on behalf of the Bureau of Explosives the Express Traffic Association of Canada, and the Railway Association of Canada; and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the proposed amendment to "Exceptions" on page 11 of the Canadian Pacific Express Company's Special Merchandise Classification No. 1, C.R.C. No. 1664, be, and it is hereby, approved as follows, namely:—

"Acids, Inflammables, Oxidizing Substances, Explosives, etc. (except as authorized by C.R.C. No. E. T. 694, supplements thereto or reissues thereof). See Note.

"NOTE: Not more than two cartons of 'Strike Anywhere' matches, when shipped in their original containers, unopened, may be accepted with a shipment of groceries."

H. GUTHRIE,
Chief Commissioner.

CIRCULAR No. 241

September 7, 1937.

*Location of Refinery, Oil and Gasoline Plants, etc., on or adjacent to
Railway Property*

File No. 28638.2

In order that the Board's records may be correct concerning refinery, oil and gasoline plants, etc., it is requested that when any changes to present installations, or new or additional installations, are made in connection with loading or unloading plants, pipe lines, storage tanks, refineries, on or adjacent to railway property, or served by railway facilities, the railway company will kindly arrange, before such changes or installations are commenced, to furnish the Board with three copies of blue-prints, showing all details in connection with such changes or installations for the approval of the Board.

Further, that the provision of this circular will be considered as in effect from September 1, 1937.

By order of the Board.

P. F. BAILLARGEON,
Secretary.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR JULY, 1937

Railway accidents209, with 35 killed and 200 injured
 Railway accidents at highway crossings 14, with 9 killed and 19 injured

223 44 219

	Killed	Injured
Passengers	1	46
Employees	5	119
Others	38	54
	44	219

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

Accidents K. I.
 1 — 2 Automobile—Ran into front of standing engine. Licence N.S. 30-754.

NEW BRUNSWICK

1 — 2 Auto Truck—Truck driver failed to take precaution approaching crossing.
 Licence N.B. C-3437.

QUEBEC

1 — 1 Automobile—Failed to stop for crossing. Licence Que. 88743.
 1 — 3 Auto Truck—Ran into side of train, failed to stop for crossing. Licence
 Que. 10559-F.

ONTARIO

1 — 1 Automobile—Drove on crossing in front of approaching train and was
 struck. Licence Ont. 635-M-7.
 1 — 2 Automobile—Without headlights, ran into side of train. Licence Ont.
 641-R-1.
 1 2 — Automobile—Drove on crossing in front of approaching train and was
 struck. Licence Mich. Z-12924.
 1 — 2 Auto Truck—Excessive speed. Licence Ont. 31-674-C.
 1 5 — Automobile—Stalled on crossing. Licence Ont. 741-S-5.
 1 — 2 Automobile—Struck by track motor. Licence Ont. 39-F-83.
 1 — 2 Automobile—Drove on crossing in front of approaching train and was
 struck. Licence Ont. 12-N-91.
 1 — 1 Auto Truck—Ran into side of train. Licence Ont. 2S-174-C.

MANITOBA

1 1 1 Automobile—Driving against rays of sun, obscuring view of train. Licence
 Man. 53-885.

SASKATCHEWAN

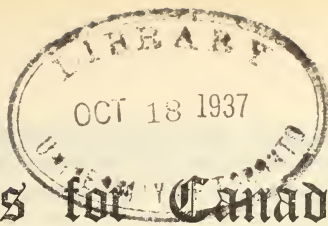
1 1 — Automobile—Drove on crossing in front of approaching train and was
 struck. Licence Sask. 931-37.

Fourteen accidents at highway crossings, all at unprotected crossings. Nine
 of the accidents occurred during the daylight hours and five at night.

OTTAWA, Sept. 8, 1937.

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The Board of



Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, October 15, 1937

No. 15

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

In the matter of the question of the payment of the cost of construction and maintenance of the proposed overhead crossing at mileage 152.61, Quebec subdivision of the Canadian Pacific Railway, near l'Ancienne Lorette Station, Quebec, as reserved by paragraph 2 of Order No. 54369, dated May 31, 1937.

File No. 40229

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the Department of Highways of the Province of Quebec asking for contributions from the Railway Grade Crossing Fund or from Vote No. 357, and also from the Canadian Pacific Railway Company, in connection with the diversion of a provincial road and the construction of an overhead bridge a short distance to the east of Lorette Station on the Canadian Pacific Railway.

The application was heard at Quebec on July 19, 1937, in the presence of counsel for the Department of Highways of the Province of Quebec and for the Canadian Pacific Railway Company.

Lorette is a small village in the Province of Quebec, and immediately adjoining the station on the east side there is a public crossing, which has been in use for many years, but the Department of Highways now proposes to divert the main highway on the south side of the Canadian Pacific Railway Company's track, crossing the track some distance to the east of Lorette Station. The proposed diversion will not eliminate any existing crossing. It is asserted by the Provincial Department that when the diversion is completed and the overhead crossing is constructed, 90 per cent of the traffic which now crosses at Lorette Station will cross via the overhead bridge and thus greatly relieve the traffic at the station crossing.

It was pointed out to Mr. Therrien, who represented the provincial department, that no grant could be made for this work from the Railway Grade Crossing Fund because that fund was only applicable to the protection, improvement or elimination of existing crossings, and that no grant could be made from Vote No. 357 because the proposed highway diversion does not

eliminate any existing railway crossing. I do not see upon what principle the Canadian Pacific Railway Company can be asked to contribute to this work. The railway will still have to maintain the crossing at Lorette Station for the accommodation of the public using the railway at that station. It was argued that the traffic over the station crossing would be comparatively light in the future and as a result the Canadian Pacific Railway Company would be relieved from the danger of accidents, etc. This, I think, is rather a remote contingency. There is no record in the files of the Board of any accident ever having occurred at Lorette Station crossing over which all the traffic on the main highway has been carried for many years. There is no doubt that after the diversion takes place and the overhead bridge is constructed, a large proportion of the traffic on the main highway will pass over the new bridge and not over the Lorette Station crossing, but the station crossing will have to be maintained by the railway company in the future as in the past.

Under these circumstances, I think no grant can be made from any funds which are at the disposal of the Board for the improvement or elimination of railway crossings, and I do not think any order should be made against the Canadian Pacific Railway Company. The application should be dismissed.

July 22, 1937.

Commissioner Stoneman concurred.

In the matter of the question of the payment of the cost of construction and maintenance of the proposed overhead crossing at mileage 152.61, Quebec Subdivision of the Canadian Pacific Railway, near l'Ancienne Lorette Station, Quebec, as reserved by Paragraph 2 of Order No. 54369, dated May 31, 1937.

File No. 40229

GARCEAU, DEPUTY CHIEF COMMISSIONER: (Dissenting)

This is an application by the Minister of Roads of the Province of Quebec for authorization to provide a grade separation on the branch road which is to be built from a point southeast of Champigny and will be known as Trans-Canada Highway Montreal to Quebec, Road No. 2-A.

The applicant has not asked the Board for authority to build the diverted highway but to build an overhead bridge over the railway.

The application reads in part as follows:—

“The said route No. 2-A will form an intersection with the railway of the Canadian Pacific Railway Co. which it is impossible to avoid either by diversion or otherwise.

“5. The applicant has to ask from your Board either the authorization to build the projected road at level crossing, an objectionable condition of travel, or to erect a viaduct at the same point of crossing.

“10. According to the provisions of the Railway Act of Canada, the applicant wishes and prays that it be granted the authorization to build the viaduct as aforesaid . . .

“12. The applicant wishes to state that the viaduct, the erection of which is to be made, should be considered as a work intended for the convenience, the safety and the protection of the public in regards as to level crossings and that a grant should be appropriated either from the Grade Crossing Fund or from other money voted by Parliament of Canada, as provided for by the Railway Act of Canada.

“Wherefore the applicant prays that an order be made by this Board granting the applicant the authorization of building the viaduct at the point of intersection of the Canadian Pacific Railway and Trans-

Canada Highway, Route No. 2-A, near the Canadian Pacific Railway Station of l'Ancienne Lorette, county of Quebec, the said viaduct to be built according to the provisions of the plans filed with the present application . . .

"Granting and approving a contribution by your Board, the amount of which is to be left at the discretion of the Board, towards the cost of the work to be done as aforesaid, from the Railway Grade Crossing Fund and other monies appropriated for such purpose by Parliament of Canada."

The dispositions of section 262 preclude the applicant from receiving any grant from the Railway Grade Crossing Fund which fund can be applied solely towards the cost of actual construction work for the protection, safety and convenience of the public in respect of crossings at rail level *in existence* on April 1, 1909, or of such works in respect of *existing crossings* at rail level constructed after April 1, 1909, provided that an agreement approved by the Board has been entered into by the company with a corporation or person.

However, Parliament of Canada, by Vote 357, appropriated the sum of \$2,500,000 to be used as follows:—

"Amount to be applied by the Board of Railway Commissioners for Canada towards the cost of actual construction work for the protection, safety and convenience of the public in respect of highway crossings of railways, as the Governor in Council may from time to time determine."

These monies were voted to relieve unemployment by actual construction work, for the protection, safety and convenience of the public at rail level crossings.

It being as essential to prevent the construction of new level crossings as to eliminate those already existing, I believe this fund (Vote 357) can be appropriated to the works contemplated by the application as they are built *solely or mainly* for the *protection, safety and convenience* of the public at a highway crossing of the railway.

I am of the opinion that the reasoning which actuated the Supreme Court of Canada in its decision on the interpretation of section 262, Canada Law Reports, 1933, p. 81, is not applicable to the fund created by Vote 357 mentioned and that, in any case, the point is one which may be determined on the circumstances of any particular case by the Governor in Council in the exercise of the powers conferred upon him by said vote.

The only limitation imposed on the Board is that, in the expenditure, care should be taken not to apply it for any construction work unless the main purpose or one of the main purposes of the construction is the protection, safety and convenience of the public *in respect* of a highway grade crossing of a railway.

With due deference for a different opinion, I would recommend to the Governor in Council a contribution of 70 per cent, not to exceed \$12,128.50, to the cost of construction of the overhead bridge, out of the fund created by Vote 357 of the Special Estimates of the Transport Department, 1937-38.

September 10, 1937.

In re question du paiement du coût de construction et d'entretien du passage supérieur projeté au mille 152.61 de la subdivision de Québec du chemin de fer Pacifique-Canadien, près de la station de l'Ancienne Lorette, Québec, telle que réservée par le deuxième paragraphe de l'ordonnance N° 54369, en date du 31 mai 1937.

(Dossier N° 40229)

JUGEMENT

GUTHRIE, COMMISSAIRE EN CHEF:

Il s'agit ici d'une requête du ministère de la voirie de la province de Québec demandant des octrois à même la Caisse des passages à niveau ou à même le fonds créé par le vote n° 357 ainsi que de la part de la compagnie du chemin de fer Canadien du Pacifique en rapport avec le détournement d'une route provinciale et la construction d'un passage supérieur à une courte distance à l'est de la station de Lorette, sur le chemin de fer Pacifique-Canadien.

Cette requête fut entendue à Québec, le 19 juillet 1937, en présence des avocats du ministère de la voirie de la province de Québec et de la compagnie du chemin de fer Canadien du Pacifique.

Lorette est un petit village situé dans la province de Québec, et immédiatement à l'est de la station il se trouve un passage public en usage depuis plusieurs années. Le ministère de la Voirie se propose maintenant de détourner la route principale du côté sud de la voie de la compagnie du chemin de fer Canadien du Pacifique en faisant traverser ladite voie à quelque distance à l'est de la station de Lorette. Le détournement projeté ne supprimera aucun passage actuel. Le ministère provincial affirme que lorsque le détournement aura été complété et que le passage supérieur aura été construit, 90 pour 100 du trafic qui traverse actuellement la voie ferrée près de la station de Lorette traversera ladite voie ferrée par le passage supérieur, et le trafic au passage près de la station sera ainsi grandement diminué.

Il fut signalé à Me Therrien qui représentait le gouvernement provincial qu'aucun octroi ne pouvait être accordé pour cet ouvrage à même la Caisse des passages à niveau parce que l'on ne pouvait avoir recours à ce fonds que pour les travaux de protection, d'amélioration ou de suppression de passages actuels et qu'aucun octroi ne pouvait être accordé à même le vote n° 357 parce que le détournement de route projeté ne supprime aucun passage actuel. Je ne vois pas en vertu de quel principe la compagnie de chemin de fer Canadien du Pacifique peut être appelée à contribuer à cet ouvrage. Le chemin de fer devra continuer d'entretenir le passage à la station de Lorette pour la commodité du public qui utilise le chemin de fer à cette station. On a prétendu que le trafic sur le passage près de la station deviendrait comparativement peu considérable et que comme résultat la compagnie de chemin de fer Canadien du Pacifique serait pour autant avantagée par la diminution des dangers d'accidents, etc. Ceci, je crois, est plutôt une possibilité éloignée. Les dossiers de la Commission ne démontrent pas qu'il soit arrivé des accidents au passage près de la station de Lorette sur lequel passe depuis plusieurs années tout le trafic de la route principale. Il n'y a pas de doute, après que le détournement aura été complété et que le passage supérieur aura été construit, qu'une proportion considérable du trafic sur la route principale passera sur le nouveau pont et non plus sur le passage près de la station de Lorette. Le passage près de la station devra, toutefois, être entretenu par la compagnie de chemin de fer à l'avenir comme par le passé.

Dans les circonstances, je crois qu'aucun octroi ne peut être accordé à même les fonds qui sont à la disposition de la Commission pour l'amélioration et la

suppression des passages de chemin de fer, et je ne crois pas qu'une ordonnance devrait être rendue à l'encontre de la compagnie de chemin de fer Canadien du Pacifique. La requête devrait être renvoyée.

Le 22 juillet 1937.

Le Commissaire Stoneman s'est rallié au jugement ci-dessus.

In re question du paiement du coût de construction et d'entretien du passage supérieur projeté au mille 152.61 de la subdivision de Québec du chemin de fer Pacifique-Canadien, près de la station de l'Ancienne Lorette, Qué., telle que réservée par le deuxième paragraphe de l'ordonnance N° 54369, en date du 31 mai 1937.

(Dossier N° 40229)

GARCEAU, COMMISSAIRE EN CHEF SUPPLÉANT: (Dissident).

Il s'agit ici d'une requête du ministre de la Voirie de la province de Québec pour obtenir l'autorisation de construire un passage supérieur sur la section de route qui doit être construite à partir d'un endroit au sud-est de Champigny et qui sera connue comme étant la route Trans-Canada Montréal-Québec, route n° 2-A.

Le requérant n'a pas demandé à la Commission l'autorisation de construire le chemin-détour mais de construire un passage supérieur au-dessus du chemin de fer. La requête se lit en partie comme suit:—

“ Cette route n° 2-A devra nécessairement former une intersection avec le chemin de fer Canadien-Pacifique, croisement qu'il est impossible d'éviter par diversion ou autrement.

“ 5. Le requérant doit donc s'adresser à votre Commission pour obtenir soit l'autorisation de construire la route projetée au niveau du chemin de fer, source, sans contredit, de graves dangers pour la circulation, soit d'obtenir la permission d'ériger un viaduc au point de croisement.

“ 10. Suivant les dispositions de la loi des chemins de fer du Canada, le requérant vous prie de lui accorder l'autorisation de construire le passage supérieur susdit...

“ 12. Le requérant désire déclarer, en s'appuyant sur l'interprétation qu'il fait de la loi des chemins de fer du Canada, que le passage supérieur projeté, devrait être considéré comme un ouvrage destiné à la commodité, à la sécurité et à la protection du public en ce qui regarde les passages à niveau, et qu'un octroi devrait lui être accordé soit à même la Caisse des passages à niveau ou à même les autres argents votés par le Parlement du Canada.

“ C'est pourquoi le requérant demande à la Commission des chemins de fer du Canada de rendre une ordonnance à l'effet d'accorder au requérant l'autorisation de construire un passage supérieur, au point de croisement de la voie ferrée du Pacifique-Canadien et de la route Trans-Canada, route n° 2-A, près de la station du chemin de fer Pacifique-Canadien à l'Ancienne Lorette, municipalité de l'Ancienne Lorette, comté de Québec, le tout tel que prévu dans les plans produits à l'appui des présentes...

“ Dérétant et approuvant un octroi par votre Commission, dont le montant est laissé à la discrétion de la Commission pour l'exécution desdits travaux à même la Caisse des passages à niveau ou à même les autres argents votés à cette fin par le Parlement du Canada ”.

Les dispositions de l'Article 262 ne permettent pas au requérant de recevoir d'octroi à même la Caisse des passages à niveau dont les sommes peuvent être

affectées uniquement au coût de construction réelle d'ouvrages pour la protection, la sûreté et la commodité du public aux passages à niveau des chemins de fer existants le premier jour d'avril 1909, ou au coût de travaux à des passages à *niveau actuels* construits après le premier jour d'avril 1909 pourvu qu'une entente approuvée par la Commission ait été conclue entre la compagnie et une corporation ou une personne.

Le Parlement du Canada, toutefois, a, par le vote 357, approprié la somme de \$2,500,000 pour être employée telle qu'indiquée ci-dessous : —

“ Montant à être appliqué par la Commission des chemins de fer du Canada au coût de construction réelle d'ouvrages pour la protection, la sûreté et la commodité du public aux croisements des chemins de fer et des voies publiques selon que le gouverneur en conseil peut déterminer de temps à autre ”.

Ce montant fut voté pour venir au secours du chômage au moyen de travaux de construction pour la protection, la sûreté et la commodité du public aux passages à niveau des chemins de fer.

Comme il est aussi essentiel d'empêcher la construction de nouveaux passages à niveau que de supprimer ceux qui existent déjà, je crois que ce fonds (vote 357) peut être appliqué aux ouvrages projetés dans la requête vu qu'ils sont construits *uniquement* ou *principalement* pour la *protection*, la *sûreté* et la *commodité* du public au croisement d'une voie ferrée et d'une route.

Je suis d'avis que les arguments en faveur de la décision de la Cour Suprême du Canada sur l'interprétation de l'Article 262, voir *Canada Law Reports* de 1933, p. 81, ne s'appliquent pas au fonds créé par le vote 357 et qu'en tout cas la question en est une qui peut être déterminée selon les circonstances de tout cas particulier par le gouverneur en conseil dans l'exercice des pouvoirs qui lui sont conférés par ledit vote.

La seule restriction imposée à la Commission consiste dans le fait qu'on doit voir à ce que les fonds octroyés ne soient pas utilisés pour n'importe quels travaux de construction à moins que le but principal ou un des buts principaux des travaux de construction ne soit la protection, la sûreté et la commodité du public à un passage à niveau de chemin de fer.

Avec tout le respect pour une opinion différente, je recommanderais au gouverneur en conseil une contribution de 70 pour 100, n'excédant pas la somme de \$12,128.50, au coût de construction du passage supérieur à même le fonds créé par le vote 357 des crédits spéciaux pour le ministère des Transports, 1937-38.

Le 10 septembre 1937.

ORDER No. 54897

In the matter of the Order of the Board No. 54369, dated May 31, 1937, authorizing the Department of Roads for the Province of Quebec to construct an overhead crossing of the Canadian Pacific Railway at mileage 152.61 Quebec Subdivision, on the Trans-Canada No. 2-A, in the Parish of l'Ancienne Lorette, County of Quebec, and Province of Quebec; and reserving the question of the apportionment of the cost of construction and maintenance thereof.

File No. 40229

WEDNESDAY, the 22nd day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner*.
J. A. STONEMAN, *Commissioner*.

Upon hearing the matter at the sittings of the Board held at Quebec, July 19, 1937, in the presence of Counsel for the Canadian Pacific Railway.

Company and the Department of Roads for the province of Quebec, and what was alleged,—

It is ordered:

1. That the application for a contribution from the Railway Grade Crossing Fund or from Department of Transport Vote No. 357 be, and it is hereby, refused.

2. That the cost of constructing and maintaining the said overhead crossing be borne and paid by the Department of Roads for the province of Quebec.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54853

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 21st day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 58 of Supplement No. 13 to Tariff C.R.C. No. E-4369, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 58 of Supplement No. 13 to Tariff C.R.C. No. E-4369, approved herein, is \$1.26 per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54867

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 21st day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 426 of Supplement No. 16 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 426 of Supplement No. 16 to Tariff C.R.C. No. 1006, approved herein, is 11 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54870

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 22nd day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1058, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1058, approved herein, are as follows:—

Item	Cents per 100 pounds	
	To	
	Fort William, Port Arthur and West Fort William, Ont.	
	Lake and rail	All rail
1 From Wolfville, N.S.	52½	55½
Port Williams, N.S.	52	55½
Lakeville, N.S.	52½	55½
Waterville, N.S.	52	55½
Berwick, N.S.	52	55½
Aylesford, N.S.	52½	55½
Kingston, N.S.	52½	55½
Middleton, N.S.	51	56½
Lawrencetown, N.S.	51	55½
Bridgetown, N.S.	51½	57
2 Sault Ste. Marie, Ont. . . . .	...	54½
Fort William, Ont.	48½	54
Port Arthur, Ont.		
West Fort William, Ont.		

One and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54879

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 22nd day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 9 to Tariff C.R.C. No. E-1252.
Supplement 45 to Tariff C.R.C. No. E-1911.
Supplement 25 to Tariff C.R.C. No. E-2564.
Supplement 10 to Tariff C.R.C. No. E-2571.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54887

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 23rd day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 18 to Tariff C.R.C. No. E-4324, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 18 to Tariff C.R.C. No. E-4324, are those shown for rate bases given below and published in Canadian Pacific Railway Supplement No. 51 to Tariff C.R.C. No. E-3221, namely:—

To	From					
	Saint John, N.B.	Halifax, N.S.	Middleton, N.S.	Bridgetown, N.S.	Yarmouth, N.S.	Riviere du Loup, Que.
	Rate		Bases			
1434 Azilda, Ont.	74	76	82	82	88	70
1435 Chelmsford, Ont.	78	80	84	84	90	72
1436 Larchwood, Ont.	80	82	88	88	94	76
1437 Lovack, Ont.	82	84	92	92	94	80
1438 Windy Lake, Ont.	88	90	92	92	96	86
1439 Cartier, Ont.	90	92	96	96	100	88
1440 Geneva, Ont.	90	92	98	98	102	88
to	94	96	102	102	106	92
1444 Pogamasing, Ont.	98	100	106	106	110	96
1445 Wye, Ont.	100	102	108	108	112	98
to	104	106	112	112	112	102
1451 Biscotasing, Ont.	108	110	112	112	116	106
1453 Ramsey, Ont.	118	120	126	126	130	116
to	98	100	108	108	112	94
1464 Chapleau, Ont.	70	72	78	78	84	68
1467 Nicholson, Ont.						
to						
1474 Dalton, Ont.						
1477 Missanabie, Ont.						
1479 Lochalsh, Ont.						
to						
1490 Amyot, Ont.						
1492 O'Brien, Ont.						
1494 White River, Ont.						
1495 Denison, Ont.						
to						
1507 Coldwell, Ont.						
1509 Middleton, Ont.						
to						
1521 Rossport, Ont.						
1522 Pays Plat, Ont.						
to						
1527 Kama, Ont.						
1770 Alden, Ont.						
1772 Goudreau, Ont.						
1774 Wanda, Ont.						
4000 Trout Mills, Ont.						
4002 Lounsbury, Ont.						
4004 Feronia, Ont.						

From stations on the Dominion Atlantic Railway one and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54890

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 24th day of September A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 725 of Supplement No. 17 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 725 of Supplement No. 17 to Tariff C.R.C. No. E-4808, approved herein, is 41 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54918

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act; and the Order of the Board No. 54699, dated August 17, 1937, approving tolls published in Tariff C.R.C. No. 1053 filed by the Dominion Atlantic Railway Company.

File No. 34822.13

MONDAY, the 27th day of September, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1053, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1053, approved herein, are as follows:—

Item	From	Cents per 100 pounds	
		4th class rates covered by previous order or orders	
15	Fenerty's Siding, N.S.....	7½	
	Mount Uniacke, N.S.....	9	
	Windsor, N.S.....	10	
	Mosherville, N.S.....	10½	
	Kennetcook, N.S.....	11½	
20	Lower Truro, N.S.....	12	
	Hantsport, N.S.....	10½	
	Port Williams, N.S.....	11	
	Mill Village, N.S.....	11½	
	Kingsport, N.S.....	12	
25	Grafton, N.S.....	14	
	Weston, N.S.....	14	
	Berwick, N.S.....	12	
	Kingston, N.S.....	13½	
	Middleton, N.S.....	14	
30	Paradise, N.S.....	14	
	Bridgetown, N.S.....	14½	
	Annapolis, N.S.....	14½	
	Hebron, N.S.....	16	
	Yarmouth, N.S.....	16½	

35	Dominion Atlantic Railway Company's proportions.....	Billed 3·8	Normal 4·7
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3. And the Board further orders that the said Order No. 54699, dated August 17, 1937, be, and it is hereby, rescinded.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54919

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 28th day of September, A.D. 1937.

S. J. McLEAN, *Asst. Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 37 to Tariff C.R.C. No. E-1974
 Supplement 38 to Tariff C.R.C. No. E-1974
 Supplement 36 to Tariff C.R.C. No. E-2248
 Supplement 10 to Tariff C.R.C. No. E-2526
 Supplement 3 to Tariff C.R.C. No. E-2629

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 54940

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 4th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 31 to Tariff C.R.C. No. E-1737.
Supplement 23 to Tariff C.R.C. No. E-2444.
Supplement 24 to Tariff C.R.C. No. E-2444.
Supplement 12 to Tariff C.R.C. No. E-2448.
Supplement 11 to Tariff C.R.C. No. E-2526.
Tariff C.R.C. No. E-2675.

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, FOR AUGUST, 1937

Railway Accidents.. . . .	125 with 18 killed and 117 injured
Railway Accidents at Highway Crossings.. . . .	26 with 13 killed and 40 injured
	Killed Injured
Passengers.. . . .	.. 24
Employees.. . . .	1 66
Other.. . . .	30 67
	31 157

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

PRINCE EDWARD ISLAND

Accidents	K.	I.	
1	-	2	Auto Truck—Auto truck struck by track motor. Licence not given.

NOVA SCOTIA

1	-	2	Auto Truck—Drove onto crossing in front of approaching train and was struck. Licence N.S. 16473.
1	-	1	Automobile ran into side of train. Licence not given.

QUEBEC

1	1	-	Automobile—Auto driver failed to stop for crossing. Licence Que. 44138.
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ONTARIO

1	-	5	Automobile—Ran into side of train; driver failed to heed wig-wag signals. Licence Tenn. C-83817.
1	-	1	Ambulance—Ran into side of train; failed to heed watchman's signal. Licence Ont. 62-135-C.
1	-	3	Automobile—Excessive speed. Licence Ont. 55-D-26.
1	-	4	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Ont. 8-R-894.
1	1	2	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Ont. 3-M-711.
1	1	1	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Ont. 9-V-329.
1	-	4	Automobile—Auto ran into side of train. Licence Penn. KE-376.
1	-	1	Auto Truck—Defective brakes; ran into side of train. Licence Ont. 47334-C.

1	-	1	Auto Truck—Truck ran into side of train. Licence Ont. 10246-C.
1	-	1	Automobile—Auto ran into side of train. Licence Ont. 3-C-991.
1	1	1	Auto Truck—Drove onto crossing in front of approaching train and was struck. Licence Ont. 77165-C.
1	1	3	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Ont. 69-M-21.
MANITOBA			
1	-	2	Auto Truck—Drove onto crossing in front of approaching train and was struck. Licence Man. T-5-651.
1	-	1	Auto Truck—Drove onto crossing in front of approaching train and was struck. Licence Man. PSV-353.
1	1	-	Grader—Government Road Grader struck by train.
SASKATCHEWAN			
1	-	1	Automobile—Auto struck track motor car. Licence Sask. 27-761.
ALBERTA			
1	-	1	Automobile—Excessive speed; ran into side of train; failed to heed automatic wig-wag signal. Alta. 75-710.
1	2	-	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Alta. 26-239.
1	1	-	Automobile—Drove onto crossing in front of approaching train and was struck. Licence Alta. 73-681.
1	1	1	Auto Truck—Drove onto crossing in front of approaching train and was struck. Licence Alta. A-1175.
1	2	-	Auto Truck—Ran into side of train. Alta. D-17-108.
BRITISH COLUMBIA			
1	1	2	Automobile—Ran into front portion of train. Licence B.C. 28-706.

Of the 26 accidents at highway crossings, 21 occurred at Unprotected Crossings, and 5 at Protected Crossings. Nineteen of the accidents occurred during the daylight hours, and seven at night.

October 5, 1937.

SUMMARY OF ORDERS ISSUED BY THE BOARD

54771. Aug. 31—Authorizing the Department of Public Works for British Columbia to construct an overhead crossing of the Esquimalt & Nanaimo Railway near Red Gap Station, Nanoose, Vancouver Island.
54772. Aug. 31—Authorizing the C.P.R. to install double bells and wigwags at College Avenue crossing, one-half mile east of Moose Jaw Station, Sask.
54773. Aug. 31—Declaring the C.N.R. crossing at Enfield, N.S., protected to Board's satisfaction.
54774. Aug. 31—Declaring the C.N.R. crossing immediately west of St. Williams, Ont., protected to Board's satisfaction.
54775. Aug. 31—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
54776. Aug. 31—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Cumberland Railway & Coal Co. under Sec. 9.
54777. Aug. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
54778. Aug. 31—Approving traffic agreement between the Bell Telephone Company and the Tyendinaga Municipal Telephone System.
54779. Aug. 28—Declaring the C.N.R. crossing of Ste. Helene St., Upton, Que., protected to Board's satisfaction provided certain speed restrictions are in effect.
54780. Aug. 30—Declaring the C.N.R. crossing just west of station building at Britannia Mills, Que., protected to Board's satisfaction.
54781. Sept. 1—Requiring the C.P.R. to install double bells and wigwags at crossing of Provincial Highway No. 38 at Laval des Rapides, Que.
54782. Sept. 1—Authorizing the Department of Public Works for British Columbia to construct an overhead crossing of the C.P.R. near Craigellachie, B.C.
54783. Sept. 1—Requiring the C.P.R. to install two wigwags and one bell at Lansdowne St., west of Park St., Peterborough, Ont.
54784. Sept. 1—Authorizing the Department of Highways for the Province of Ontario to construct a crossing of the C.N.R. at Beardmore, Ont.
54785. Sept. 1—Authorizing the C.N.R. to relocate certain crossovers at interlocking plant at Paris Junction, Ont.

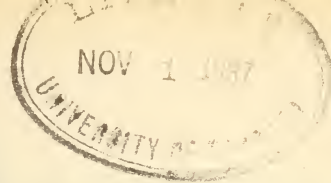
- 54786. Sept. 1—Authorizing the Good Roads Board of the Province of Manitoba to construct a subway under the C.N.R. tracks near Elphinstone, Man.
- 54787. Sept. 10—Declaring the C.N.R. crossing at Tracadie, N.S., protected to Board's satisfaction.
- 54788. Sept. 3—Extending the time for construction of branch line by the C.P.R. to serve Dominion Coal & Wood, Ltd., at Islington, Ont., to March 5, 1938.
- 54789. Sept. 3—Declaring the Sydney & Louisburg Railway crossing at Reserve Mines near Dominion Station, N.S., protected to Board's satisfaction.
- 54790. Sept. 2—Requiring the C.P.R. to install an automatic bell and wigwag at crossing one-half mile west of Crow Lake Station, Ont.
- 54791. Sept. 1—Authorizing the Municipality of the Township of Magog, Que., to construct a crossing over the C.P.R. track at mileage 80·8 Sherbrooke Subdv.
- 54792. Sept. 2—Authorizing the Toronto, Hamilton & Buffalo Railway Co. to install automatic signal protection at the crossing of the track of the C.N.R. by the tracks of applicant at Victoria Ave., Hamilton, Ont.
- 54793. Sept. 2—Approving traffic agreement between the Bell Telephone Co. and the Rupert & North Wakefield Telephone Co., Ltd.
- 54794. Sept. 2—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54795. Sept. 2—Directing the Northern Alberta Railways Company to appoint a caretaker at Belloy, Alta., during grain shipping season.
- 54796. Sept. 1—Authorizing the C.P.R. to construct a highway crossing at mileage 78·1 Sherbrooke Subdv.
- 54797. Sept. 3—Authorizing the C.N.R. to reconstruct subway at Station Avenue, Shawinigan Falls, Que.
- 54798. Sept. 7—Authorizing the C.P.R. to construct extension of branch line to serve The Texas Company of Canada, Ltd., at mileage 98·4 Cranbrook Subdv.
- 54799. Sept. 4—Declaring the C.N.R. crossing just east of Waverley Station, N.S., protected to the Board's satisfaction.
- 54800. Sept. 4—Declaring the C.N.R. crossing of St. Albert Trail, Edmonton, Alta., protected to Board's satisfaction.
- 54801. Sept. 7—Declaring the Dominion Atlantic Railway crossing first west of Lawrence-town Station, N.S., protected to Board's satisfaction.
- 54802. Sept. 4—Relieving the C.P.R. from maintaining cattle guards at highway crossing at mileage 1·99 Ste. Agathe Subdv.
- 54803. Sept. 4—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Fredericton & Grand Lake Coal & Railway Co. under Sec. 9.
- 54804. Sept. 4—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Lin Subdv.
- 54805. Sept. 7—Approving traffic agreement between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Cumberland.
- 54806. Sept. 7—Authorizing the C.N.R. to operate overhead bridge at Eva Street, Sudbury, Ont.
- 54807. Sept. 4—Authorizing the Council of the Townships of Bangor, Wicklow and McClure, Ont., to construct a highway crossing of the C.N.R., in lieu of present private crossing, one mile north of Lake St. Peter.
- 54808. Sept. 8—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 54809. Sept. 4—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Waltham Subdv., Quebec.
- 54810. Sept. 9—Amending Order No. 51463 dated October 25, 1934, *re* C.P.R. crossing at Angliers, Que.
- 54811. Sept. 9—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the Fredericton & Grand Lake Coal & Railway Co. under Sec. 9.
- 54812. Sept. 9—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Cumberland Railway & Coal Company under Sec. 9.
- 54813. Sept. 10—Authorizing the Department of Highways for Province of Ontario to construct and maintain a highway crossing over the C.N.R. west of Hogarth Station, Ont.
- 54814. Sept. 10—Approving supplement to service station application between the Bell Telephone Company and the Crediton Rural Telephone System.
- 54815. Sept. 10—Approving supplement to service station application between the Bell Telephone Company and the Mattawa Electric Light & Power Co. Ltd.

- 54816. Sept. 13—Authorizing the City of Ottawa to reconstruct the existing subway under the tracks of the C.P.R. and the C.N.R. at the junction of Nicholas St., Mann Ave., Echo Drive and Greenfield Ave.
- 54817. Sept. 11—Declaring the C.N.R. crossing four miles east of Forest, Ont., protected to the Board's satisfaction.
- 54818. Sept. 13—Authorizing the Dept. of Public Works and Highways of the Province of Prince Edward Island to improve the lines of vision at crossing of Souris River Road by the C.N.R., at Souris, P.E.I.
- 54819. Sept. 13—Amending Order No. 45765 dated Nov. 13, 1930, directing the C.N.R. to construct a subway under their tracks on 7th Line Road, Oakville, Ont.
- 54820. Sept. 13—Directing the C.P.R. to install a single bell and wig-wag at the crossing of Raglan Road east of Myrtle Station, Ont.
- 54821. Sept. 13—Approving plan showing the location of diversion of No. 1 Highway and overhead crossing of main line of C.P.R. in the NE $\frac{1}{4}$, 29, 15, 13, W3M, Saskatchewan.
- 54822. Sept. 13—Refusing the application of the Dept. of Highways of the Province of Ontario for an order authorizing installation of an electric bell and wig-wag at Lansdowne St. crossing (C.N.R.) Peterborough, Ont.
- 54823. Sept. 14—Requiring the C.N.R. to install one electric bell and two wig-wags at Broadway Ave. crossing, Montreal-East, Quebec.
- 54824. Sept. 14—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the Temiscouata Railway Co. under Sec. 9.
- 54825. Sept. 14—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 54826. Sept. 14—Directing the Esquimalt & Nanaimo Railway Co. to construct a highway crossing over its tracks at Mileage 10.5, Port Alberni Subdv.
- 54827. Sept. 15—Authorizing the C.N.R. to relocate and construct their station at South Devon, N.B.
- 54828. Sept. 17—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in item of supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54829. Sept. 17—Relieving the C.P.R. from maintaining cattle guards at mileages 84.2, 85.63 and 86.11 on its Temiskaming Subdv.
- 54830. Sept. 17—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplements to tariffs filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54831. Sept. 17—Authorizing the C.N.R. to operate over bridge at mileage 145.3, Brazeau Subdv., Alberta.
- 54833. Sept. 17—Authorizing the C.P.R. to construct branch line of railway to serve the Lake Sulphite Pulp Co., Ltd., Red Rock, Ontario.
- 54834. Sept. 17—Approving relocation of C.N.R. station at Beardmore, Ontario.
- 54835. Sept. 18—Declaring the C.N.R. crossing, mileage 7.30, Cowichan Subdv., protected to Board's satisfaction.
- 54836. Sept. 18—Declaring the C.P.R. crossing, second north of Olds Station, Alta., protected to Board's satisfaction.
- 54837. Sept. 2—Amending Order No. 54837, dated Sept. 2, authorizing the Dept. of Mines and Resources to change location of existing crossing of the C.P.R. at Anthracite, Alta.
- 54838. Sept. 16—Approving Traffic Agreement between the Bell Telephone Co. and the McNab Telephone Company, Ltd.
- 54839. Sept. 17—Approving Traffic Agreement between the Bell Telephone Co. and the Horton & McNab Telephone Association, Ltd.
- 54840. Sept. 20—Authorizing the Municipal Corporation of Ste. Cecile du Bic, Quebec, to construct a crossing of the C.N.R. at mileage 26.5, Rimouski Subdv., Quebec.
- 54841. Sept. 20—Requiring the C.N.R. to install two wig-wags and one bell at Huron St. crossing, Newmarket, Ont.
- 54842. Sept. 20—Authorizing the Dept. of Roads for Quebec to construct an overhead bridge across the C.N.R. at mileage 14.5, Rouse's Point Subdv.
- 54843. Sept. 20—Authorizing the Nipissing Central Railway Co. to construct its track across the C.N.R. at Rouyn, Que.
- 54844. Sept. 20—Approving proposed amendment C.P. Express Co's Special Merchandise Classification No. 1.
- 54845. Sept. 13—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.N.R. under Sec. 3.
- 54846. Sept. 21—Declaring the C.N.R. crossing, first east of Tillsonburg Junction, Ont., protected to Board's satisfaction.
- 54847. Sept. 22—Requiring the C.N.R. to install an automatic bell and wig-wag at Middle Road crossing, north of Burlington, Ont.

- 54848. Sept. 20—Approving the reconstruction of the C.N.R. bridge at mileage 98·9 Skeena Subdv., B.C.
- 54849. Sept. 20—Authorizing John Bredt to lay a pipe and flume under the C.N.R. at mileage 67·01, Ashcroft Subdv., B.C.
- 54850. Sept. 21—Approving plan showing standard concrete cattle pass of the C.N.R.
- 54851. Sept. 20—Dismissing complaint of residents of Nicolet, Que., against alleged traffic hazard at C.N.R. subway east of Nicolet River bridge.
- 54852. Sept. 21—Declaring the Pere Marquette Railway crossing, first public east of Walkerville Junction, Ont., protected to Board's satisfaction.
- 54853. Sept. 21—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 54854. Sept. 21—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs and supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54855. Sept. 21—Slightly amending Order No. 54777 dated Aug. 28, 1937, *re* tolls published in Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Co. under the Maritime Freight Rates Act.
- 54856. Sept. 21—Slightly amending Order No. 54777 dated Aug. 28, 1937, *re* tolls published in Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Co. under the Maritime Freight Rates Act.
- 54857. Sept. 21—Slightly amending Order No. 54777 dated Aug. 28, 1937, *re* tolls published in Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Co. under the Maritime Freight Rates Act.
- 54858. Sept. 20—Requiring the County of Abitibi to bear the cost of maintaining the crossing of the C.N. R. at Destor, Que.
- 54859. Sept. 22—Authorizing the C.N.R. to reconstruct the bridge at mileage 83·7 Flin Flon Subdv., Man.
- 54860. Sept. 20—Authorizing the Dept. of Highways for Ontario to construct a crossing over the C.P.R. spur track to the Levack Mine, situated in Lot 10, Con. 5, Dowling Township, Ont.
- 54861. Sept. 22—Authorizing the C.N.R. to reconstruct bridge at Mileage 80·5 Flin Flon Subdv., Man.
- 54862. Sept. 20—Authorizing the Dept. of Public Works for British Columbia to construct a highway crossing over the Esquimalt & Nanaimo Railway at mileage 12·5 Cowichan Subdv.
- 54863. Sept. 22—Declaring the C.N.R. crossing of Dorchester Road, west of Stamford Junction, Ont., protected to Board's satisfaction.
- 54864. Sept. 20—Approving the clearance at the north loading dock of the General Motors of Canada, Ltd., Oshawa, Ont.
- 54865. Sept. 22—Approving the plan showing the C.N.R. standard reinforced concrete pile trestle.
- 54866. Sept. 21—Dismissing the complaint of Edouard Levesque of Isle Verte, Que., *re* drainage at mileage 64·7 of the C.N.R. Rimouski Subdv.
- 54867. Sept. 21—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54868. Sept. 21—Rescinding Order No. 54823 dated Sept. 14, 1937, requiring the C.N.R. to install protection at Broadway Ave. crossing, Montreal East, Que.
- 54869. Sept. 21—Authorizing the Municipality of South Ouslow, Que., to construct a highway crossing over C.N.R. at mileage 32·93 Waltham Subdv.
- 54870. Sept. 22—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 54871. Sept. 21—Approving traffic agreement between the Bell Telephone Co. of Canada and the Little Britain Telephone Co. Ltd.
- 54872. Sept. 22—Approving traffic agreement between the Bell Telephone Co. of Canada and the Aylmer & Malahide Telephone Co. Ltd.
- 54873. Sept. 21—Approving traffic agreements between the Bell Telephone Co. of Canada
- 54874. Sept. 22 and the Commissioners for the Telephone System of the Municipality of the Township of Dummer, the Cameron Telephone Co. Ltd., and the Commissioners for the Telephone System of the Municipality of the Township of Manvers.
- 54875.
- 54876. Sept. 21—Relieving the C.P.R. from maintaining cattle guards at highway crossings at certain mileages Orford Subdv.
- 54877. Sept. 21—Relieving the C.P.R. from maintaining cattle guards at highway crossings at certain mileages Hereford Subdv.
- 54878. Sept. 22—Authorizing the Corporation of the Township of York, Ont., to construct a sidewalk along the subway under the C.P.R. on Scarlett Road.
- 54879. Sept. 22—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 54880. Sept. 21—Declaring the Pere Marquette Railway crossing mileage 74·20 St. Thomas and Walkerville Subdv., protected to Board's satisfaction.
- 54881. Sept. 23—Authorizing the C.P.R. to construct branch line to serve the Aetna Coal Company near Willow Creek, Alta.
- 54882. Sept. 23—Relieving the C.P.R. from maintaining cattle guards at South David Street, Fergus, Ont., certain crossings on the MacTier Subdv., and on the Orangeville Subdv.
- 54883.
- 54884.

54885. Sept. 23—Delaying until July 1, 1938, consideration of the application of the Town of Dorval, Que., for increased protection of crossing of the C.N.R. at Cote de Liesse Road in view of the possibility of a plan for a new highway between Montreal and Ste. Anne de Bellevue.
54886. Sept. 21—Authorizing the C.P.R. to construct a branch line to serve the Dominion Textile Co. Ltd., Montreal, Que.
54887. Sept. 23—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under Sec. 9.
54888. Sept. 23—Declaring the C.P.R. crossing first north of Pambrun Station, Sask., protected to Board's satisfaction.
54889. Sept. 24—Declaring the Northern Alberta Railways crossing first west of Morinville Station, Alta., protected to Board's satisfaction.
54890. Sept. 24—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under Sec. 9.
54891. Sept. 24—Approving proposed station building to be erected at Lac Darey, Que., by the C.N.R.
54892. Sept. 24—Approving Traffic Agreements between the Bell Telephone Co. and La Compagnie de Telephone de Richelieu and La Compagnie de Telephone de St. Ours.
54894. Sept. 24—Authorizing the Dept. of Public Works for Alberta, to construct a highway crossing over the C.P.R. in the SW $\frac{1}{4}$ -31-9-26 W4M, Alberta.
54895. Sept. 27—Authorizing the Department of Roads for Quebec to construct a road diversion on Route No. 6 at Newport, Que., so as to close crossings of the C.N.R. at mileages 38.7 and 38.9 Chandler Subdv.
54896. Sept. 27—Authorizing the Department of Highways for Ontario to reconstruct crossing of the C.N.R. at Germanville Road, North Bay, Ont.
54897. Sept. 22—Requiring the cost of construction and maintaining overhead crossing of the C.P.R. at mileage 152.61 Quebec Subdv., be borne by the Quebec Department of Roads.
54898. Sept. 27—Authorizing the Department of Public Works and Labour for Manitoba to divert the Selkirk-Winnipeg Beach Highway in the Rural Municipality of St. Andrews, and authorizing the closing of existing crossing.
54899. Sept. 27—Authorizing the C.N.R. to reconstruct bridges over creeks at mileage 60.1 and 119.5 Graham Subdv., Ontario.
54900. Sept. 27—Approving plans showing subway to be constructed under the Essex Terminal Railway Company, Windsor, Ont.
54901. Sept. 27—Approving plans showing subway to be constructed under the Essex Terminal Railway Company, Windsor, Ont.
54902. Sept. 27—Authorizing the C.N.R. to reconstruct bridges at mileages 118.9 Fort Frances Subdv., 56.7 and 114.4 Graham Subdv.
54903. Sept. 27—Authorizing the C.N.R. to reconstruct bridges at mileages 118.9 Fort Frances Subdv., 56.7 and 114.4 Graham Subdv.
54904. Sept. 27—Authorizing the C.N.R. to reconstruct bridges at mileages 118.9 Fort Frances Subdv., 56.7 and 114.4 Graham Subdv.
54905. Sept. 30—Approving the location of unloading standard and pipe line leading therefrom across and through the right of way of the C.N.R. at Amqui, Que., to serve Imperial Oil Limited.
54906. Sept. 27—Authorizing the C.N.R. to reconstruct bridge over Everett's Creek at mileage 109.8 Fort Frances Subdv., Ont.
54907. Sept. 27—Approving standard plans of the C.N.R. showing reinforced concrete culverts.
54908. Sept. 27—Approving the construction of bridges over Endake and Bulkley Rivers, B.C., and authorizing operation of bridges at mileage 13.1, 58.6, 59.4, 69.4, 77.6 and 84.3 Telkwa Subdvs. (C.N.R.).
54909. Sept. 30—Approving abandonment of Vancouver, Victoria & Eastern Railway & Navigation Company's line between Princeton and Hedley, B.C.
54910. Sept. 29—Declaring the C.P.R. crossings at mileages 7.88 and 56.52 Macleod Subdv., and C.N.R. crossing at mileage 14.6 Harte Subdv. protected to Board's satisfaction.
54911. Sept. 29—Subdv., and C.N.R. crossing at mileage 14.6 Harte Subdv. protected to Board's satisfaction.
54912. Sept. 30—Board's satisfaction.
54913. Sept. 29—Authorizing the Department of Highways for Ontario to move C.N.R. crossing some 996 feet west at mileage 94.30 Fort Frances Subdv.
54914. Sept. 29—Authorizing the C.N.R. to operate bridges at certain mileages Skeena Subdv., B.C.
54915. Sept. 29—Approving agreement between certain telephone systems operating The Transcanada Telephone System.
54916. Sept. 29—Requiring the C.N.R. to fence their right of way in vicinity of Seal Cove and l'Anse a Brilliant, Que.
54917. Sept. 29—Approving service station contract between the Bell Telephone Co. and the Desboro Moorsburg Telephone Co., Ltd.
54918. Sept. 27—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the Dominion Atlantic Railway Co. and the C.N.R. under Sections 9 and 3.
54919. Sept. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the Dominion Atlantic Railway Co. and the C.N.R. under Sections 9 and 3.
54920. Sept. 29—Approving traffic agreement between the Bell Telephone Co. and La Compagnie de Téléphone Contrecoeur.

54921. Sept. 29—Authorizing the C.N.R. to reconstruct bridge at mileage 44.0 Porter Subdv., Sask.
54922. Sept. 30—Approving plan showing operating circuits of wigwag signals and bell at Raleigh and Lacroix Sts., Chatham, Ont. (C.P.R.).
54923. Sept. 30—Authorizing the C.N.R. to enter upon the lands of John Pollard, Norwich, Ont., and remove trees so as to improve sight lines at crossing of Stover St. South.



The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, November 1, 1937

No. 16

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Application of the Municipality of South Onslow, Que., for an Order authorizing the use of the present crossing under the tracks of the Canadian Pacific Railway, at Mileage 32.26, Waltham Subdivision, as a public crossing.

File 39497.

Heard at Ottawa, Ont., September 20, 1937.

ORAL JUDGMENT OF THE CHIEF COMMISSIONER DELIVERED AT THE HEARING

The CHIEF COMMISSIONER: I think, gentlemen, if we are all agreed, that we will order a crossing to be constructed at the point shown in red on the plan and we will place the burden of restoring the contour of the property, as it was before the railway was built at the point of crossing, on the railway, and the rest of the work, the approaches, grading and the like, to be paid for by the municipality.

If any additional removal of earth is to take place within the right of way after the railway has provided its share, it shall also be paid for by the municipality; that is, that the contour of the land will be as it was before the railway was built, and the profiles will show what it was then. After that has been done the municipality will pay for any removal of earth that may be necessary, as well as construct the approaches.

Future maintenance of the actual crossing, planking and the like, will be upon the railway. Future maintenance of the approaches will be upon the municipality.

The CHIEF COMMISSIONER: We will pass a general order relieving the railway of the obligation to maintain cattle-guards at the various crossings in the township, as soon as we receive the resolution spoken of, but in the present instance, at this crossing, you consent that there be no railway cattle-guards?

Mr. KENNEDY: Absolutely.

The CHIEF COMMISSIONER: Then we will draw an order accordingly.

ORDER No. 54869

In the matter of the application of the Municipality of South Onslow, in the Province of Quebec, hereinafter called the "Applicant," under Section 256 of the Railway Act, for authority to use the present crossing under the tracks of the Canadian Pacific Railway Company at mileage 32.26 Waltham Subdivision as a public crossing.

File No. 39497

TUESDAY, the 21st day of September, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held in Ottawa, September 20, 1937, in the presence of counsel for the applicant and the railway company, and what was alleged,—

It is ordered:

1. That the applicant be, and it is hereby, authorized to construct a highway crossing over the Canadian Pacific Railway at mileage 32.93 Waltham Subdivision, in the township of South Onslow, province of Quebec, at the point shown in red on the plan and profile numbered 4073, on file with the Board under file No. 39497, and in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

2. That the burden of restoring the contour of the property, as it was before the railway was built at the point of crossing, be on the Canadian Pacific Railway Company; the rest of the work—the approaches, grading, and the like—to be paid for by the applicant.

3. That if any additional removal of earth is to take place within the right of way after the railway has provided its share it shall also be paid for by the applicant, that is, that the contour of the land will be as it was before the railway was built, and the profiles will show what it was then. After this has been done the applicant will pay for any removal of earth that may be necessary, as well as construct the approaches.

4. That the future maintenance of the actual crossing—planking and the like—will be upon the Canadian Pacific Railway Company; and that the future maintenance of the approaches will be upon the applicant.

5. That the Canadian Pacific Railway Company be, and it is hereby, relieved from maintaining cattle-guards at the said highway crossing, such exemption, however, not to be construed as limiting the liability of the company under section 386 of the Railway Act, or in any manner affecting the application of the provisions of the said section.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54854

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

• File No. 34822.13

TUESDAY, the 21st day of September, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1054, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1054, approved herein, are as follows, namely:—

Item		Cents per 100 pounds
1	From Halifax, N.S.....	43
	From Yarmouth, N.S.....	43½
2	From	Halifax, N.S., rates covered by previous order or orders.
		Cents per 100 pounds
		To

Item		Montreal, Que.	Quebec, Que.	Ottawa, Ont.	Hamilton, Ont.	Toronto, Ont.
3	From					
	Wolfville, N.S.....	46½	47	45½	49	49½
	Port Williams, N.S.....					
	Lakeville, N.S.....					
	Waterville, N.S.....					
	Berwick, N.S.....					
	Aylesford, N.S.....					
	Kingston, N.S.....	46	47	45	49	49
	Middleton, N.S.....	47½	48½	47	51	51½
	Lawrencetown, N.S.....	46	47	45	49	49
	Bridgetown, N.S.....	47½	48½	47	51	51½
	Meteghen, N.S.....	44	43½	44	48½	49
	Meteghan, N.S.....	44	43½	44	48½	49

Item	From	To	
4	Halifax, N.S.	Toronto, Ont.	33
	Yarmouth, N.S.	Toronto, Ont.	34
	Yarmouth, N.S.	Montreal, Que.	33

Item		
5	To Guelph, Ont.....	45½
	To Simcoe, Ont.....	45
	To Toronto, Ont.....	40
6		41½

One and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54855

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 21st day of September, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 21 of Supplement No. 3 to Tariff C.R.C. No. 1050, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 21 of Supplement No. 5 to Tariff C.R.C. No. 1050, approved herein, is 10½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54856

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 21st day of September, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1059, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1059, approved herein, are as follows:—

From	Cents per barrel or equivalent		
	A	B	C
Annapolis Royal, N.S.....	50	50	50
Bridgetown, N.S.....	50	50	50
Middleton, N.S.....	43½	43	42½
Kingston, N.S.....	42	41½	42½
Berwick, N.S.....	36½	35½	35½
Weston, N.S.....	37	37	36½
Kingsport, N.S.....	36½	35½	35½
Kentville, N.S.....	31½	32	32
Port Williams, N.S.....	30½	29½	29
Horton Landing, N.S.....	29	29	28
Hantsport, N.S.....	26	26	27½
Hartville, N.S.....	25	25	25

A—Apples in packages, except hampers, and carrots.
B—Apples in hampers, and pears.
C—Potatoes.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 54857

In the matter of tariffs, and supplements to tariffs, filed under the Maritime Freight Rates Act; and the Order of the Board No. 54777, dated August 28, 1937, approving of tolls published in Tariff C.R.C. No. 1040 filed by the Dominion Atlantic Railway Company.

File No. 34822.13

TUESDAY, the 21st day of September, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon its appearing that an error was made in constructing the normal tolls in connection with the said Tariff C.R.C. No. 1040,—

It is ordered: That the said Order No. 54777, dated August 28, 1937, be, and it is hereby, amended by striking out the figures, "24½" in item 90, 5 tons or over, and substituting therefor the figures, "25."

H. GUTHRIE,

Chief Commissioner.

ORDER No. 54981

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 8th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in item 120 of 2nd revised page No. 32 to Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 120 of 2nd revised page No. 22 to Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item 120	Cents per 100 pounds
To Montreal, Que.	11
Quebec, Que.	41½

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55007

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 12th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in item 3940B of Supplement No. 12 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Temiscouata Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 3940B of Supplement No. 12 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

To	Cents per 100 pounds	
	B	N
Cabano, Que.		
Notre Dame du Lac, Que. }	10	12½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55008

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

TUESDAY, the 12th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the toll published in item 140D of Supplement No. 12 to Tariff C.R.C. No. E-4645, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 140D of Supplement No. 12 to Tariff C.R.C. No. E-4645, approved herein, is 6¾ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55019

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 12th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1051, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1051, approved herein, are as follows:—

From	Cents per 100 pounds via Digby, N.S.		
	To Drummond- ville, Que.	Montreal, Que.	Quebec, Que.
Windsor, N.S.....	58	58	54½
Falmouth, N.S.....	58	58	54½
Hantsport, N.S.....	59½	59½	55½
Avonport, N.S.....	62	62	58½
to Wolfville, N.S.....			
Port Williams, N.S.....	64	64	60½
Kentville, N.S.....	64	64	60½
Mill Village, N.S.....	65	65	61½
to Kingsport, N.S.....			
Billtown, N.S.....	65	65	61½
Lakeville, N.S.....	65	65	61½
Woodville, N.S.....			
Grafton, N.S.....	67½	67½	64
Somerset, N.S.....			
Weston, N.S.....	65	65	61½
Coldbrook, N.S.....			
to Waterville, N.S.....	65	65	61½
Berwick, N.S.....	67½	67½	64
Aylesford, N.S.....			
to Kingston, N.S.....	59	61	59½
Wilmot, N.S.....	57½	59½	58
Middleton, N.S.....	69	69	65½
Brickton, N.S.....			
to Paradise, N.S.....	57½	59½	58
Bridgetown, N.S.....	69	69	65½
Tupperville, N.S.....			
to Annapolis Royal, N.S.....	70½	70½	67
Upper Clements, N.S.....			
to Smiths Cove, N.S.....	72	72	68½
Digby, N.S.....			
North Range, N.S.....	62½	64½	64
to Hebron, N.S.....			
Yarmouth, N.S.....			

On traffic moving via Digby, N.S., one and one-half cents per 100 pounds to be deducted account of water haul.

VIA TRURO

The Dominion Atlantic Railway Company's proportions to be reported as follows:—

From	Cents per 100 pounds					
	Drummond- ville, Que.		To Montreal, Que.		Quebec, Que.	
	B	N	B	N	B	N
Windsor, N.S.....	14½	18	14½	18	14½	18
Falmouth, N.S.....	14½	18	14½	18	14½	18
Hantsport, N.S.....	16	19½	16	19½	15½	19
Avonport, N.S.....	18	22	18	22	18	22
to						
Wolfville, N.S.....	19½	24	19½	24	19½	24
Port Williams, N.S.....	19½	24	19½	24	19½	24
Kentville, N.S.....	20	25	20	25	20	25
Mill Village, N.S.....						
to	20	25	20	25	20	25
Kingsport, N.S.....						
Billtown, N.S.....	20	25	20	25	20	25
Lakeville, N.S.....						
Woodville, N.S.....	22	27½	22	27½	22	27½
Grafton, N.S.....						
Somerset, N.S.....	20	25	20	25	20	25
Weston, N.S.....						
Coldbrook, N.S.....	20	25	20	25	20	25
to						
Waterville, N.S.....	20	25	20	25	20	25
Berwick, N.S.....						
Aylesford, N.S.....	22	27½	22	27½	22	27½
to						
Kingston, N.S.....	15½	19	17½	21½	19½	24
Wilmot, N.S.....	14	17½	16	20	18	22½
Middleton, N.S.....	23½	29	23½	29	23½	29
Brickton, N.S.....						
to	14	17½	16	19½	18	22½
Paradise, N.S.....						
Bridgetown, N.S.....	23½	29	23½	29	23½	29
Tupperville, N.S.....						
to	24½	30½	24½	30½	24½	30½
Annapolis Royal, N.S.....						
Upper Clements, N.S.....	24½	30½	24½	30½	24½	30½
to						
Smith's Cove, N.S.....	26	32	26	32	26	32
Digby, N.S.....						
North Range, N.S.....	18	22	20	24½	22	27½
to						
Hebron, N.S.....						
Yarmouth, N.S.....						

Cents per 100 pounds
To

From	Amherst, N.S. Sackville, N.B.		Moncton, N.B.		Coldbrook, N.B.		Saint John, N.B.		Levis, Que. Riviere du Loup, Que.	
	B	N	B	N	B	N	B	N	B	N
Windsor, N.S.....									14½	18
Falmouth, N.S.....									14½	18
Hantsport, N.S.....									15½	19
Avonport, N.S.....										
to									18	22
Wolfville, N.S.....	15	18	13½	16½	13½	16½	13½	16½	19½	24
Port Williams, N.S....	15	18	15	18	15	18	15	18	19½	24
Kentville, N.S.....										
Mill Village, N.S.....	16	19½	16	19½	16	19½	16	19½	20	25
to										
Kingsport, N.S.....	15½	19	15½	19	15½	19	15½	19	20	25
Billtown, N.S.....										
Lakeville, N.S.....										
Woodville, N.S.....	15½	19	15½	19	15½	19	15½	19	20	25
Grafton, N.S.....										
Somerset, N.S.....	15½	18½	15½	18½	15½	18½	15½	18½	22	27½
Weston, N.S.....										
Coldbrook, N.S.....	16	19½	16	19½	16	19½	16	19½	20	25
to										
Waterville, N.S.....	16	19½	16	19½	16	19½	16	19½	20	25
Berwick, N.S.....										
Aylesford, N.S.....	17½	21½	17½	21½	17½	21½	17½	21½	22	27½
to										
Kingston, N.S.....	17½	21½	17½	21½	17½	21½	17½	21½	17½	21½
Wilmot, N.S.....	17	21½	17	21½	17½	21½	..	..	16	20
Middleton, N.S.....										
Brickton, N.S.....	17½	21½	17½	21½	17½	21½	17½	21½	23½	29
to										
Paradise, N.S.....	17	21½	17	21½	17½	21½	..	..	16	20
Bridgetown, N.S.....										
Tupperville, N.S.....	17½	21½	17½	21½	17½	21½	17½	21½	23½	29
to										
Annapolis Royal, N.S.										
Upper Clements, N.S.									24½	30½
to										
Digby, N.S.....									26	32
North Range, N.S....										
to										
Hebron, N.S.....									18	22½
Yarmouth, N.S.....										

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55020

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 13th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 46 to Tariff C.R.C. No. E-1911

Supplement 26 to Tariff C.R.C. No. E-2564

Supplement 27 to Tariff C.R.C. No. E-2564

Tariff C.R.C. No. E-2678.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55011

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to cancel, on less than statutory notice, rates published on cement, natural or Portland, building, carloads, from St. Mary's, Ontario, to various points.

File No. 27612.163

SATURDAY, the 16th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

Whereas the applicants' tariff C.R.C. No. E-2115, in Item No. 260 thereof, publishes special competitive carload rates on cement, natural or Portland, building, from St. Mary's, Ontario, to Ailsa Craig, Brunner, Gad's Hill, Milverton, and Park Hill, Ontario, of 4 cents per 100 pounds, which were issued to meet motor truck competition;

And whereas the applicants represent that when the said rates were published they were assured that the traffic would be diverted from motor carriers to rail lines; that the shippers have not fulfilled their promise and contracts have been made with truckers to move the tonnage which is to be shipped to the above-named points; and that, under these conditions, it is desired to cancel the rates effective on one day's notice—

It is therefore ordered that the applicants be, and they are hereby, granted leave to file, on three days' notice, an amendment to their tariff C.R.C. No. E-2115 cancelling the special competitive rate of 4 cents per 100 pounds on cement, natural or Portland, building, carloads, from St. Mary's, Ontario, to Ailsa Craig, Brunner, Gad's Hill, Milverton, and Park Hill, Ontario.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 55043

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 20th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

The Board orders:

1. That the tolls published from Wapske, New Brunswick, in section 2 of Supplement No. 39 to Tariff C.R.C. No. E-4322, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said section 2 of Supplement No. 39 of Tariff C.R.C. No. E-4322, approved herein, are those shown for Group "B" rates in Tariff C.R.C. No. E-4203.

S. J. McLEAN,
Assistant Chief Commissioner.

1891

1. The first of the following is a list of the names of the persons who have been elected to the office of

2. The second of the following is a list of the names of the persons who have been elected to the office of

3. The third of the following is a list of the names of the persons who have been elected to the office of

4. The fourth of the following is a list of the names of the persons who have been elected to the office of

5. The fifth of the following is a list of the names of the persons who have been elected to the office of

6. The sixth of the following is a list of the names of the persons who have been elected to the office of

7. The seventh of the following is a list of the names of the persons who have been elected to the office of

8. The eighth of the following is a list of the names of the persons who have been elected to the office of

9. The ninth of the following is a list of the names of the persons who have been elected to the office of

10. The tenth of the following is a list of the names of the persons who have been elected to the office of

11. The eleventh of the following is a list of the names of the persons who have been elected to the office of

12. The twelfth of the following is a list of the names of the persons who have been elected to the office of

13. The thirteenth of the following is a list of the names of the persons who have been elected to the office of

14. The fourteenth of the following is a list of the names of the persons who have been elected to the office of

15. The fifteenth of the following is a list of the names of the persons who have been elected to the office of

16. The sixteenth of the following is a list of the names of the persons who have been elected to the office of

17. The seventeenth of the following is a list of the names of the persons who have been elected to the office of

18. The eighteenth of the following is a list of the names of the persons who have been elected to the office of

19. The nineteenth of the following is a list of the names of the persons who have been elected to the office of

20. The twentieth of the following is a list of the names of the persons who have been elected to the office of

21. The twenty-first of the following is a list of the names of the persons who have been elected to the office of

22. The twenty-second of the following is a list of the names of the persons who have been elected to the office of

23. The twenty-third of the following is a list of the names of the persons who have been elected to the office of

24. The twenty-fourth of the following is a list of the names of the persons who have been elected to the office of

25. The twenty-fifth of the following is a list of the names of the persons who have been elected to the office of

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The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, November 15, 1937

No. 17

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Application of the City of Kitchener, Ontario, for an Order authorizing the construction of level crossings at Mill and South Streets in lieu of replacement of wooden bridge over Galt-Kitchener line of the Canadian National Railways, and for a grant from the Railway Grade Crossing Fund towards the cost of the proposed work.

(File No. 40261)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the City of Kitchener, Ont., to authorize the construction of level crossings at Mill street and South street, where these streets are crossed by the Galt-Kitchener line of the Canadian National Railways. The application was heard in the city of Kitchener on September 27, 1937, in the presence of counsel for the applicant and of counsel for the Canadian National Railways. The line of railway which crosses the above streets was constructed seventy or eighty years ago, and it is alleged that the highways were constructed and used before the railway was built. At the present time the traffic is very light over this line of railway. It is stated that there is only one freight train of one or two cars passing over the railway each way per day.

At the point where the railway line crosses these streets, it runs through a cutting about 18 feet below the level of the streets. It was stated that in the early years there were two wooden bridges over the railway, one at Mill street and the other at South street. But for many years there has been only one wooden bridge over the railway for the accommodation of travel both on Mill street and on South street. Mill street runs in a general direction north and south, and South street runs in a general direction east and west. The bridge is built at right angles to the railway, with the result that traffic on Mill street runs for a short distance along the side of the railway cut and then makes a right-angle turn across the bridge and another right-angle turn after crossing the bridge going northwards. The approach to the bridge on South street is also at a sharp angle. These streets originally intersected each other at right angles. The railway crosses both streets diagonally a short distance from the point where the streets cross each other. The bridge is not in align-

ment with either of the streets. In my opinion, the present location of the bridge for the accommodation of traffic over these streets constitutes a source of danger to users of these highways, which should be remedied in some practical manner. The bridge is a wooden structure and has for some years been falling out of repair. It is stated that a number of accidents have happened at this bridge, and during recent months the bridge has been absolutely closed for travel. The bridge has now become dilapidated beyond repair. All travel upon Mill street and South street is now compelled to detour a considerable distance.

Both Mill street and South street are improved roadways with hard surfaces, but the traffic over these roads could not be considered as heavy. A traffic count was taken in regard to Mill street on November 2, 1935, for a ten-hour period from 7 a.m. to 5 p.m., during which time 154 vehicles passed over the bridge and six heavy loads had to detour for the purpose of safety. It was stated that since 1935 Mill street has been resurfaced and that there is considerably more traffic at the present time than there was when the count was taken in 1935. But neither the traffic upon the highway nor upon the railway would justify any heavy expenditure in the construction of a new modern bridge. If a suitable bridge were constructed capable of taking care of the traffic upon both of these streets, it would cost from \$20,000 to \$25,000 and, in addition, there would probably be some land damage, as additional lands would have to be procured to bring these streets into alignment with the bridge. It seemed to be the opinion of all parties concerned that such a heavy expenditure for a new bridge would not be warranted.

After hearing what was alleged by representatives of the city of Kitchener and of the railway, the Board visited the site of the present bridge and held a conference upon the ground with the engineers and representatives of the various parties. At this conference it was agreed by the various parties that the best solution of the present difficulty would be the construction of two crossings at grade level, one at Mill street and the other at South street. To enable these crossings to be constructed it will be necessary to elevate the track of the railway, which will entail considerable cost, but the engineers estimated that both crossings could be constructed at a cost of \$10,000. The railway agreed that if these crossings were constructed, it would cause all train movements over the crossings to be flagged by members of the train crew. On behalf of the railway it was agreed that the railway should contribute \$3,000 to the cost of the work, and representatives of the city of Kitchener agreed to contribute \$3,000 towards the construction of two level crossings, provided that 40 per cent of the amount, namely \$4,000, would be contributed from funds available to the Board for expenditure for such purposes.

In my opinion the best solution of the present very unsatisfactory condition would be the construction of two grade crossings as above set out. The erection of a modern bridge constructed in such a way as to accommodate traffic on both of the above streets would be a very expensive undertaking. The only satisfactory alternative, in my opinion, is the construction of two level crossings. While the construction of grade crossings to take the place of an overhead bridge may appear to be a retrograde step in respect of the work of railway crossing protection, the circumstances of the present case seem to offer no alternative without involving heavy expenditure upon a new bridge which is not warranted either by highway or railway traffic at this point. I consider that the circumstances in connection with this application would justify an expenditure from Parliamentary Vote No. 357, 1937, of 40 per cent of the cost, not to exceed \$4,000, in respect of this work for the protection, safety, and convenience of the public.

I think an order should be made for the construction of the above crossings at grade level; that the railway should be bound to flag all train movements over

these crossings by members of the train crews; that the Board contribute 40 per cent, not exceeding \$4,000, of the cost of the work; and that the balance of the cost be divided equally and paid by the city of Kitchener and the Canadian National Railways. The future maintenance of these crossings should be paid by the Canadian National Railways.

October 2, 1937.

The Deputy Chief Commissioner and Commissioner Storeman concurred.

ORDER No. 55105

In the matter of the application of the City of Kitchener, in the Province of Ontario, hereinafter called the "Applicant," under Section 256 of the Railway Act, for authority to construct two crossings at grade level, in lieu of replacing the wooden bridge, at Mill and South Streets, over the Galt-Kitchener line of the Canadian National Railways; and for a grant from the Railway Grade Crossing Fund toward the cost of the said work.

File No. 40261

MONDAY, the 1st day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Kitchener, September 27, 1937, in the presence of counsel for the applicant and the Canadian National Railways, and what was alleged; and upon an examination by the Board of the *locus in quo*, and the consent of the parties,—

It is ordered:

1. That the applicant be, and it is hereby, authorized to construct two grade level crossings over the Canadian National Railways on Mill and South streets, in the city of Kitchener, province of Ontario, as shown on the plan and profile dated April 12, 1937, on file with the Board under file No. 40261, and in accordance with and subject to the Standard Regulations of the Board Affecting Highway Crossings.

2. That, with the approval of the Governor in Council by Order in Council P.C. 2670, dated October 27, 1937, forty per cent of the cost of constructing the said crossings, not exceeding, however, the sum of \$4,000, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38; and that the remainder of such cost be borne and paid one-half by the applicant and one-half by the Canadian National Railways.

3. That the cost of maintaining the said crossings be borne and paid by the Canadian National Railways.

4. That all train movements over the said crossings be flagged by members of the train crews.

5. That the approval of the Governor in Council by the said Order in Council herein referred to is subject to the proviso that the applicant shall agree with His Majesty, represented by the Minister of Transport, in such form as the said Minister may approve, that all persons employed in the execution of the works herein authorized shall, while so employed during the continuance of the execution of the works, be paid fair wages and that the working hours of such persons shall not exceed eight hours per day nor forty-four hours per week while so employed, all in accordance with the provisions of the Fair Wages and Hours of Labour Act, 1935.

H. GUTHRIE,
Chief Commissioner.

Consideration of the question of requiring the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, and all utility companies whose plants are affected by Board's Orders Nos. 53433, 53491 and 54162, dated respectively September 8, 1936, September 26, 1936, and April 10, 1937, in re Eighteenth Street, Town of New Toronto, Ontario, to remove their utilities at their own expense.

(File No. 37615).

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the Canadian National Railways for an order to compel the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, and all utility companies whose plants are affected by the Board's Orders Nos. 53433, 53491 and 54162, made in respect of an undercrossing at Eighteenth street, in the town of New Toronto, Ontario, where that street crosses the lines of the Canadian National Railways, to remove their utilities at their own expense.

The application came on for hearing at Toronto on September 28, 1937, in the presence of counsel for the Canadian National Railways, the municipalities of New Toronto and Etobicoke, the Bell Telephone Company of Canada, and the Hydro-Electric Power Commission of Ontario.

By an Order of the Board, No. 53433, dated September 8, 1936, it was ordered that the town of New Toronto be authorized to construct a subway under the tracks of the Canadian National Railways at Eighteenth street, in the town of New Toronto, as shown upon the plan and profile filed with the Board, and that detail plans of the proposed structure should thereafter be filed for the approval of an engineer of the Board, and that with the approval of the Governor in Council thirty-three and one-third per cent of the cost of constructing the subway, not exceeding the sum of \$60,000, should be paid out of the fund appropriated under Department of Railways and Canals Vote No. 420, Special Supplementary Estimates 1936-37; that \$75,000 of the cost be paid by the town of New Toronto and the township of Etobicoke, and that \$45,000 of the cost be paid by the Canadian National Railways. The maintenance of the said subway was ordered to be borne as to 50 per cent by the town of New Toronto and the township of Etobicoke, and the remaining 50 per cent by the Canadian National Railways.

By a subsequent Order of the Board, No. 53491, dated September 26, 1936, Order No. 53433 was amended by striking out clause 2 and substituting therefor the following clause:—

"2. That with the approval of the Governor in Council by Order in Council, P.C. 2229, dated September 2, 1936, thirty-three and one-third per cent of the cost of constructing the said subway, not exceeding, however, the sum of \$60,000, be paid out of the fund appropriated for the purpose under Department of Railways and Canals Vote No. 420, Special Supplementary Estimates 1936-37; that twenty-five per cent of the cost, not exceeding the sum of \$45,000, be paid by the Canadian National Railways, and that the remainder, estimated at \$75,000, be paid by the Applicant and the township of Etobicoke."

And by adding the following paragraph:—

"5. That the Canadian National Railways be, and they are hereby, authorized to prepare plans and specifications and do the work of construction of the bridge supporting their tracks and any railway construction or reconstruction involved; and that the remainder of the work, including paving, be done by the Applicant and in accordance with its standards."

Subsequently it became known that Eighteenth street at the point where it crosses the tracks of the Canadian National Railways is a county highway under the jurisdiction of the Toronto and York Roads Commission. The Toronto and York Roads Commission filed its consent to and approval of the above-mentioned orders, and agreed to contribute the cost of construction of a central 20 feet of the subway pavement and the immediate approaches thereto. Thereafter, the said Orders Nos. 53433 and 53491 were amended by Order No. 54162 made by the Board on April 10, 1937, under which last-mentioned Order it was provided that the Board should contribute forty-one and two-thirds per cent of the cost of constructing the said subway, not exceeding, however, the sum of \$75,000, to be paid out of the fund appropriated by Parliament for such purpose, instead of the sum of \$60,000 mentioned in the preceding Orders, and that 25 per cent of the cost, not exceeding \$45,000, should be paid by the Canadian National Railways; and that the remainder of the cost be paid by the town of New Toronto and the township of Etobicoke.

It was further ordered by the last mentioned order that the Toronto and York Roads Commission should construct, at its own expense, the said central 20 feet of subway pavement and the immediate approaches thereto.

The first application which was made to the Board in respect of the said railway crossing at Eighteenth street was made on October 22, 1930, by the town of New Toronto, asking for authority to construct a subway under the Canadian National Railways tracks at Eighteenth street, and for an order apportioning the costs and authorizing an amount to be paid out of the grade separation fund as relief work. The town of New Toronto (formerly part of the township of Etobicoke) is situated about three miles to the northwest of the city of Toronto. After this application had been received with the necessary plans of the said proposed work, it was forwarded to the Canadian National Railways, and they were asked to make their submissions in respect thereto. The Canadian National Railways submitted that the volume of traffic on the highway did not justify the construction of a subway which would cost in the neighbourhood of \$180,000, or more, and also submitted that at that time they were committed to very heavy expenditures for grade separation works in Toronto and vicinity and were not in a position to contribute anything to the construction of the subway at Eighteenth street. On account of the financial situation which then existed throughout Canada, the Board determined that it was not expedient to authorize the construction of the subway at that time, and so the matter rested until a subsequent application was made to the Board by the town of New Toronto on April 7, 1936. This application was made to the Board in the form of a resolution of the municipal council. In the resolution it was stated that this work should be undertaken as an unemployment relief work in order to give employment to the citizens of New Toronto and of surrounding municipalities, and it was also recited in the said resolution as follows:—

“AND WHEREAS the level crossing at Eighteenth street and the Canadian National Railway Yards should be eliminated both from a hazard standpoint and one that tends or will tend toward retarding natural development of the district:”

This application was heard at Toronto on June 3, 1936, in the presence of counsel for the applicant, the township of Etobicoke, and the Canadian National Railways. Much of the discussion which took place at the hearing was in reference to the financial side of the proposal to ascertain if a work of such magnitude could really be financed should the Board see fit to authorize it. It was represented that the estimated cost of the work would be from \$180,000 to \$200,000. After the hearing, the Board had the advantage of visiting Eighteenth street and of making an examination of the locus in the presence of

representatives of the railway company and of the two municipalities which were interested.

The Eighteenth street crossing at New Toronto is over a very busy yard of the Canadian National Railways. The traffic count supplied by the railways for a 48-hour period on April 27 and 28, 1936, gives a detailed statement of the traffic over this crossing. It is now protected only by a watchman on duty 24 hours per day. There are two main line tracks of the railway and three switching tracks over this crossing. The railway traffic over the crossing during the 48-hour period mentioned above shows as follows, namely:—

Eastbound trains	61
Westbound trains	64
Switching movements over crossing,	
Eastbound	297
Westbound	376

or a total train movement over the crossing of 798 for a period of 48 hours, which is an average throughout the whole 48 hours of about 17 train movements per hour over this crossing.

The vehicular traffic over the crossing during the said period of 48 hours, both east and west, was 1,098; and the pedestrian traffic 346. If the application rested alone upon the vehicular and pedestrian traffic over the crossing, it might well be urged that it was not in itself sufficient to justify a heavy expenditure for crossing protection. However, as pointed out by counsel and the municipal authorities who were present, both vehicular and pedestrian traffic avoid this crossing whenever possible not only on account of the danger attendant upon it, but also to avoid the delay which so frequently occurs by reason of the crossing being blocked by switching movements. In order to avoid crossing at Eighteenth street northbound and southbound traffic is compelled to cross the railway by roadways three-quarters of a mile to the east, or three-quarters of a mile to the west of Eighteenth street.

The Board made an inspection of the crossing the day following the hearing, and at this inspection there were present the engineers of the applicant and of the railway and various municipal representatives. It was this examination of the crossing and view of the general situation which convinced me that the crossing as it then existed was highly dangerous to the public, and that in the interest of the protection, safety and convenience of the public steps should be taken for the protection of the crossing. It is true that the Board was urged by the municipalities to take into consideration the benefit which a subway would be to the municipality as a matter of improvement of municipal streets, and also upon the ground that the work would afford a considerable amount of employment which was very much needed at that time. But I considered these questions to be merely incidental to the main issue as to whether in the interest of the public and for the protection, safety and convenience of the public the work should be undertaken. I was convinced by what I saw at the crossing that the situation warranted action by the Board without further delay. I have consulted my colleague, the Assistant Chief Commissioner, who also heard the application, in regard to this aspect of the matter, and he agrees that the view I have just expressed that the question of protection, safety and convenience of the public was the consideration which moved the Board to make an Order in this case.

The present application is for an Order to compel the utility companies to remove their lines and equipment from Eighteenth street in order that the work of the subway may proceed. Counsel for the Bell Telephone Company and for the Hydro Power Commission of Ontario stated that they had no objection to the removal of their equipment, provided that they were reimbursed for all outlay to which they were put in the matter. Counsel for both these

utility companies also stated that the work of removal should be performed by the respective utility companies, as they were equipped with the necessary facilities and engineering staff to undertake such work. I think that the utility companies should be entrusted with this particular part of the work. The main contention of the utility companies was in respect of the cost of removal and replacement of their lines and equipment, and as to the parties by whom this cost should be paid. Both utility companies strongly objected to payment of any part of the cost by their respective companies. Counsel for the Bell Telephone Company and for the Hydro Power Commission of Ontario both based their contention in this respect, mainly, upon the following grounds, namely:—

1. That the utility companies were not parties to the original application and were not notified of or represented at the hearing by the Board when the above Orders were made and, consequently, were not bound by the findings of the Board.

2. That the motive of the Board in making the above Order was not the protection, safety and convenience of the public.

3. That the application was initiated by the municipalities as a means of obtaining money to be expended for unemployment relief, and not for the purpose of protecting the public from danger or hazard at the railway crossing.

4. That the order made did not show upon its face that the work was for the protection, safety and convenience of the public.

5. That the utility companies had not in any way caused or contributed to the danger.

Upon these various points counsel presented a very full and able argument before the Board.

In regard to the first point, it is to be noted that the authority of the Board to deal with applications of this kind is to be found in the provisions of sections 257, 259, and 39 of the Railway Act. It is provided by section 257 that upon the application of a municipal corporation, or certain other interested parties, the Board may make an order for the protection, safety and convenience of the public as it deems expedient. Section 259 provides that the Board may order what portion, if any, of the cost of any work is to be borne by the railway company, municipal or other corporation, or person in respect of any order made by the Board under section 257. By section 39 of the Railway Act it is provided that when the Board in the exercise of any power vested in it orders any work to be constructed, the Board may, unless otherwise expressly provided, order by what company, municipality or person interested or affected by such order the said work shall be performed and by whom and in what proportion the cost thereof shall be paid.

When an application is made to the Board under section 257 in respect of an existing crossing the preliminary question to be decided by the Board is whether the crossing in question is of such a character as to require special protection in the public interest. The only parties who are interested in this preliminary question are the municipalities, the public in general, and the railway company which crosses the particular highway involved. The plant and equipment of the utility companies along the particular street involved do not constitute an element of danger at the crossing, and the utility companies are in no way interested in the decision of the preliminary question as to whether the crossing is a dangerous crossing requiring some special protection. It is only after this question has been affirmatively decided by the Board and detail plans have been filed that the utility companies become interested in the matter.

In the present application, and in numerous applications which have been made to the Board throughout many years, utility companies were not and have

not been notified to appear on the preliminary hearing before the Board. Should the Board decide that protective work should be undertaken at the crossing which would necessitate the removal of the lines and equipment of utility companies, these companies have been notified before any order has been made against them for the removal of their plant. Instances may occur, and in the past have occurred, where applications have been made to the Board for subways and bridges under or over railway crossings which, if authorized, would involve the removal of the plants of the utility companies. In a number of these cases the Board has declined to authorize subways or bridges, and has ordered gates, bells and wig-wags, etc., as sufficient protection. In such cases the plants of the utility companies have not been interfered with to the slightest degree. In my opinion it would be idle to notify utility companies to make their submissions in respect of such applications until the Board has reached a decision as to whether any and, if so, what protective work should be ordered at the crossing involved.

Counsel for the Bell Telephone Company contended that utility companies should be heard upon the original application and should be entitled to call evidence to show that there was no necessity for ordering special protection at a particular crossing, and that the protection, safety and convenience of the public was not concerned. I cannot accept this view of the matter, and I must, therefore, hold that it is not necessary to notify utility companies of the preliminary application under section 257 when the only question to be decided by the Board is as to whether a particular work should be ordered for the protection, safety and convenience of the public.

Upon the second point: there can be no doubt that the question of unemployment relief and also of the improvement of municipal thoroughfares was prominently placed before the Board at the hearing which took place in Toronto. The former became an important element in considering what financial arrangements could be made by the two interested municipalities in meeting the expenditure involved in the construction of a subway, and it was made clear to the Board that unless these two municipalities could obtain from government sources money for expenditure for unemployment relief which could be utilized in connection with this work, that these municipalities were not in a position to finance their part of the undertaking. But unemployment relief was not an element in the decision of the Board that the Eighteenth Street crossing should be protected in the interest of the public, nor was the question of the benefit that such work would be to the municipal highways in the neighbourhood.

Upon the third point urged by counsel for the Bell Telephone Company, namely, that in the record of proceedings, and particularly in the order of the Board, the protection, safety and convenience of the public was not mentioned. If this point is in any way important in respect of the application before the Board, I consider that the order should be amended to state specifically that the work ordered is for the protection, safety and convenience of the public.

In regard to the fourth point urged by counsel for the utility companies, I need only say that while it is true that the works of utility companies placed upon the streets at points crossed by railways do not cause or contribute to the danger to the public using such crossings, yet the general practice of the Board for many years has been to order public utility companies to bear the cost of the removal of their lines and equipment, where the work is ordered for the protection, safety and convenience of the public, and I see no reason for departing from this rule in the present case. It is estimated by counsel for the Bell Telephone Company that the cost of removal in the present instance to the Bell Telephone Company will be \$2,500, and the cost of removal to the Hydro-Electric Power Commission of Ontario will be \$1,470 less approximately \$150 by way of salvage, or a net amount of \$1,320.

In my opinion an order should be made that the utility companies remove their poles and equipment from Eighteenth street as soon as the railway company is ready to proceed with the work; that the work to be performed in such removal shall be executed by the respective utility companies; and that the companies bear all cost in connection therewith; also that Order No. 53433 be amended as above set out.

October 8, 1937.

Consideration of the question of requiring the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, and all utility companies whose plants are affected by the Board's Orders Nos. 53433, 53491, and 54162, dated respectively September 8, 1936, September 26, 1936, and April 10, 1937, in re 18th Street, Town of New Toronto, Ont., to remove their utilities at their own expense.

File No. 37615.

GARCEAU, DEPUTY CHIEF COMMISSIONER: (DISSENTING)

The record establishes that the subway at 18th street, New Toronto, was to be constructed as the result of an arrangement between the town and the railway company when assured of a grant of public moneys towards the cost of the actual construction of the work. Order No. 53433 of September 8, 1936, authorizing the construction, which was made upon the application of the town, with the approval of the Governor in Council necessary in such cases, specifies the amount to be paid out of the Parliamentary Vote for the purpose and apportions the remainder of the cost among the applicant town, the township of Etobicoke, and the Canadian National Railways. This apportionment covered the cost of the whole work, which includes the moving of the utilities. (39 Can. Ry. Cas., at p. 198). The order also apportions the cost of maintenance among these three parties. No order was made against the utility companies. They had had no notice of the application and were not parties to the proceedings.

The public utilities are on the highway under the authority of the Parliament of Canada. The Judicial Committee of the Privy Council has held that "once the pipes were laid by statutory authority, then they, in fact, became parties soli," "as much "land" as the highway itself or any other part of the soil beneath."

"There are then the two freeholds—that of the company in their pipes, with all the incidents thereto either at the common law or by statute, and that of the city corporation in the soil, etc., which is limited by the rights of the company." The Ottawa Gas Co. and City of Ottawa, 45 O.L.R., at p. 625.

The rails, poles, and wires of the street railway used in operating the railway have been held to be realty. Bank of Montreal v. Kirkpatrick, (1901) 2 O.L.R. 113, at p. 123, and In re Toronto Ry. Co. Assessment (1898), 25 A.R. (Ont.) 135. Clearly, therefore, the utility companies have a property ownership in that portion of the highway on which their poles and wires or equipment have been laid or planted.

In the well known case of Toronto v. Consumers' Gas Co. (1916), 2 APP. Cas. 618, it was decided that the city of Toronto had to pay the Gas Company for the expense and loss it was put to in the removal of its pipes by reason of the city constructing a sewer on the highway. Lord Shaw, in delivering the judgment of the committee, said that it was within the right of the city in constructing a drain to order the lowering of the gas main, but it is the duty of the Corporation to pay the cost of the operation. The compensation to which the company was entitled was declared to be the cost of displacing and replacing these pipes.

It is to be noted that in the case the Judicial Committee was considering, the compensation was to be paid to a public utility. In applying the principle no distinction is made between a public utility corporation and a private individual, as has been suggested should be done. The same principle was applied in *Toronto vs. Toronto Transportation Commission*, 46 Can. Ry. Cas. 34, where it was decided that a public utility operating under statutory authority is entitled to be compensated for the costs it incurred in removing tracks, wires, and poles made necessary or required by the widening or altering of streets by the city.

I know of no case in which the courts have distinguished between the utility company and private individuals in applying the established rule of law that the owner should be compensated for the injurious affection to his property. This right to compensation was recognized in Ontario and the cost to utilities of removing their plants paid in full up to the year 1925, when the Public Service Works on Highways Act, c. 29, was passed and came into effect. Under this Act the utility was to be paid only 50 per cent of its labour cost in removing its equipment. Forty-six Can. Ry. Cas., at p. 45. The principle was given statutory force in Quebec by Article 407 of the Civil Code.

Thus both at common law and by statute the principle is established that the owner (public utility or private individual) should be compensated when his property is injuriously affected.

The discretion vested in the Board by section 39 of the Railway Act must be exercised judicially and not arbitrarily. "The jurisdiction of the court, under section 25, subsection 8, of the Judicature Act, 1873, is discretionary and every judge in exercising his discretion must exercise it judicially, not arbitrarily, or too widely." Chitty, L. J., in *John v. John*, 67 L.J. Ch. 618.

The presence of the plants of the public utilities at the point of crossing in this case did not contribute to the condition which made necessary the construction of the subway. The utilities derive no benefit from the work. On the other hand, the work was made necessary because of the railway's presence there and the railway company unquestionably benefits by the construction of the subway, and the same may be truly said of the municipalities. It is their enterprise, for their own benefit.

The municipalities were the applicants for the construction of the subway, but, subsequently, the railway consented and contributed to the work and even asked to consider part of it as its undertaking.

Section 164 of the Railway Act is mandatory and imposes on the railway the obligation to pay when removing the plants or equipment of the public utilities.

Whether the construction of the subway is considered as an enterprise of the municipalities or as a joint enterprise of the municipalities and the railway, there are statutory obligations imposed on all of them, the railway and the municipalities to pay compensation when the utilities are removed for their benefit.

The "general practice" under the authority of which the Board rendered its decision, is tantamount to a legal enactment by the Board altering or divesting the utilities of civil and property rights given them by statutory dispositions.

For the above reasons I would reimburse the public utilities the cost of removing and replacing their facilities.

OTTAWA, October 25, 1937.

Consideration of the question of requiring the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, and all utility companies whose plants are affected by Board's Orders Nos. 53433, 53491 and 54162, dated respectively September 8, 1936, September 26, 1936, and April 10, 1937, in re Eighteenth Street, Town of New Toronto, Ontario, to remove their utilities at their own expense.

(File No. 37615)

COMMISSIONER STONEMAN:

I agree with the learned Chief Commissioner in his findings with regard to the various complaints raised by the public utility companies in this case. He has dealt in a detailed manner with the record. I propose therefore to confine myself to one question, viz., the objection of those representing the utility companies to being assessed any portion of the cost of performing the necessary work. The position here, as I see it, is that, all the parties whom the Board propose to assess are on the ground—all of them having the right to be there. At the time they located, none of them thought that grade separation might be necessary for the *protection and safety* of the public some time in the future.

The municipality made the application; the railway companies opposed it in the most vigorous manner because they knew they would be assessed a substantial proportion of the cost of constructing the necessary works.

There is no question in my mind as to the Board's power to order any of the parties to contribute. Section 39, subsection (2), of the Railway Act, reads as follows:—

“The Board may, except as otherwise *expressly provided*, order by whom, in what proportion, and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance thereof, or of otherwise complying with such order, shall be paid.”

I know of no exemption, “expressly provided,” permitting utility companies to escape. It is all very well for those representing the utilities to argue, as they do here, that their works do not cause or contribute to the danger of the public at the intersection; but, the point is, because of the fact that their works are there, the cost of performing the necessary work is increased. The Order issued because the Board decided the work was necessary for the “protection and safety” of the public.

The Chief Commissioner holds, and I agree, that the utility companies should be ordered to move their works, at their own expense. This is in line with decisions of the Board since 1912, and in my opinion the Board is exercising a discretion, “expressly provided,” in the Railway Act, and in a manner which is not only proper but also eminently fair.

OTTAWA, October 26, 1937.

ORDER No. 55071

In the matter of the Order of the Board No. 53433, dated September 8, 1936, as amended by Orders Nos. 53491 and 54162, dated respectively September 26, 1936, and April 10, 1937, authorizing the Town of New Toronto, in the Province of Ontario, to construct a subway under the tracks of the Canadian National Railways at Eighteenth Street, and apportioning the cost thereof;

And in the matter of the consideration of the question of requiring the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, and all utility companies whose plants are affected by the said Orders, to remove their utilities at their own expense.

File No. 37615

TUESDAY, the 26th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon hearing the matter at the sittings of the Board held in Toronto, September 28, 1937, in the presence of counsel for the Canadian National Railways, the Bell Telephone Company of Canada, the Hydro-Electric Power Commission of Ontario, the town of New Toronto, and the township of Etobicoke, and what was alleged,—

It is ordered:

1. That the said Order No. 53433, dated September 8, 1936, be, and it is hereby, further amended by adding the words, "for the protection, safety and convenience of the public," after the word "subway" in the second line of paragraph 1 of the order.

2. That the Bell Telephone Company of Canada and the Hydro-Electric Power Commission of Ontario be, and they are hereby, required to remove their poles and equipment from Eighteenth street, in the town of New Toronto, province of Ontario, as soon as the Canadian National Railways are ready to proceed with the work of constructing the subway authorized under the said Order No. 53433 of September 8, 1936; and that the work to be performed in such removal be executed by and the cost in connection therewith paid by the respective utility companies.

H. GUTHRIE,

Chief Commissioner.

Complaints of Glass and Mirrors Company and the McLagan Furniture Company, Limited, Stratford, Ontario, regarding interpretation placed by the Canadian Freight Association upon the item covering Hall Seats or Stands and Hall Mirrors under the heading of Furniture in the Canadian Freight Classification.

File No. 40319.

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

Written submissions were filed by the complainants and the Canadian Freight Association and the matter was then listed for hearing at a sittings of the Board in Kitchener on September 27, in order that it might be more fully developed and additional representations received from the complainants and the Canadian Freight Association.

Since March 1, 1913, there has been an item under the distinctive heading of furniture in the Canadian Freight Classification applying on hall seats or

stands, not upholstered, and hall mirrors. The rating thereon is first class, less than carload, and they can be shipped in mixed carloads of furniture at carload rating of fourth class. Mirrors are provided for under the distinctive heading of glass as follows:—

Glass	Ratings	
	L.C.L.	C.L.
Mirrors, plate glass—Same ratings and conditions as plate or mirror glass.		
Mirrors and looking glasses, other than plate glass, O.R.B., in boxes:		
Hand	1	
Other than hand	1	
C.L., min. wt. 24,000 lbs.		3
Plate or mirror:		
In box cars, O.R.B., in boxes:		
United outside measurement over 120 inches	D-1	
United outside measurement not over 120 inches . . .	1	
C.L., min. wt. 24,000 lbs.		3

Rule No. 10 of the Classification explains its application to articles under distinctive headings.

The carload rating on furniture is fourth class, carload minimum weight 14,000 pounds, and the carload rating on mirrors is third class, minimum carload weight 24,000 pounds. Mirrors form a component part of numerous articles of furniture and, for many years, were affixed thereto when the article was set up and it has always been understood that when mirrors are sold with, and as a part of, a piece of furniture, they would be accepted under the heading of furniture, because the mirror is a part of the complete article and represents only a small percentage of the total weight thereof. When mirrors are sold separately and not forming a part of a piece of furniture, the mirror ratings are charged. In recent years, through changing designs, the mirrors forming a part of a piece of furniture may be either affixed thereto or hung by cords from the moulding, or otherwise fastened to the wall over the furniture, but, if sold with and forming a component part of the article, are accepted under the heading of furniture.

The reason for amending the item covering hall seats or stands in 1913, by adding the words "hall mirrors," was, it is stated, because it was then found that sometimes hall seats were equipped with the mirror attached, while, in other cases, the mirrors were separate and affixed to the wall over the hall seat. At that time the mirrors were usually affixed to the several articles of furniture and the provision for hall mirrors was made to cover clearly those which were not fastened to the hall seat. The only type of hall mirror then known was one with a heavy frame and provided with garment hooks. The record is clear that this was the type of hall mirror then provided for.

What is here involved in this complaint has reference to mirrors which are not shipped as a component part of a piece of furniture, but sold and shipped separately. The less than carload ratings are not in issue, but the question of including such mirrors in pool cars with furniture.

The complainants commenced the manufacture of a line of mirrors in January, 1936, and state that, in order to determine the proper classification ratings under which "these hall mirrors" could be shipped to Western Canada, they requested a representative of the Canadian National Railways to inspect the mirrors and advise them on this point. They filed, as Exhibit No. 1, a letter dated January 14, 1936, from the representative of the railway, reading:—

"Confirming phone conversation with your Mr. Todd, it is permissible to mix hall mirrors in carloads of furniture moving to the Canadian Northwest. You will find this arrangement covered under item 3, page 127, Canadian Freight Classification No. 18."

Just what discussion took place verbally is not a matter of record, but the letter states that it is permissible to mix "hall mirrors" in carloads of furniture

moving to the Canadian Northwest, which, of course, is correct, provided that they can be clearly and unequivocally ear-marked as such. It is stated by complainants that their enclosures of mirrors in furniture pool cars were always described as "hall mirrors" and they obtained the furniture carload rating thereon for shipments made during a period of some fourteen months.

Complainants suggest that this practice was approved by the Canadian Freight Association, because no objections were registered, although many of the shipments "must have been examined in the course of the regular physical examinations conducted by these inspectors in the regular performance of their duties." On this point, Mr. Ransom, Chairman of the Canadian Freight Association, states that not more than one per cent of the freight shipped throughout Canada is inspected, as they have not the staff to do it, and, if a firm is believed to be reliable, their shipments are seldom checked up unless it is requested for some particular purpose. It appears that the matter was brought to light by an investigation made by the Canadian Freight Association following receipt of complaints from other mirror manufacturers to the effect that their competitors were shipping mirrors to Western Canada and obtaining the benefit of the furniture rating of 4th class, minimum 14,000 pounds, whereas they were compelled to pay 3rd class rating, minimum 24,000 pounds. The complainants were not known in the transaction, because the pool cars were shipped by the Hale Forwarding Company and that company was, it is stated, written to calling their attention to the misdescription as "hall mirrors" of mirrors which were not properly so described and, subsequently, the shipments being still described as hall mirrors, the charges thereon had been increased by the railways and penalty charges also imposed for misdescription (see Classification Rule No. 18).

We were furnished by complainants (Exhibit No. 3) with cuts illustrating the line of mirrors manufactured by them. While complainants call all of them "hall mirrors," they are, in fact—which is admitted by complainants—mirrors which may be placed in any room in the house; they are also found in barber shops, seating room of parlour cars, hotel lobbies and other places. It appears quite obvious that these mirrors have been described as hall mirrors only by reason of the item "hall mirrors" under the heading of furniture and for the purpose of obtaining the furniture rating thereon. I consider this an improper description when they are not sold as forming a part of a hall seat or stand, but separately and for use in any of the places to which reference has been made. On this point it is particularly relevant that Mr. Todd, representing the complainants, when asked if these were all hall mirrors, what mirrors would be left to come under the provision for mirrors, other than hand, under the heading of glass, he suggested that the items last mentioned were to cover, possibly, the type of mirror that would ordinarily be considered as construction mirrors for the decoration of retail stores and that sort of thing. Of course, the description of the mirror items is much broader than this and incapable of any such narrow interpretation; further, upon the record before us, no other mirror manufacturer, during the twenty-four years that this item has been in the classification, has taken the same view, or made the same contention, as the complainants, nor have they described these mirrors as "hall mirrors" when shipped and sold separately and not as a part of a piece of furniture. The furniture carload rating of fourth class in the Canadian Freight Classification is a low rating of a great many years' standing; it is lower than contained in any of the freight classifications in effect within the United States. While there are no data before us, I am of the opinion that the average value of a carload of furniture would be considerably less than the value of a carload of mirrors rated at third class. At any rate, quite different considerations influenced the establishment of the carload rating on furniture from those governing the rating on glass and mirrors. The reasonableness of the latter rating is not in

issue in this proceeding. Any interpretation of the classification which would permit these mirrors, shipped by themselves and not as a component part of an article of furniture, to be included in furniture cars at fourth class, while charged third class in straight carloads of mirrors, also third class when shipped in mixed carloads with mouldings; mirror or picture frame; frames, mirror or picture; backing, mirror or picture; as specifically provided for by item 43, page 178, of the classification, would be clearly unreasonable and distinctly in conflict with long-recognized principles of classification. Further, such an interpretation would provide a lower carload rating on the mirrors than the material from which they are made, which would also be inconsistent.

The question that is here presented—apart from describing mirrors used for other purposes as hall mirrors—is not new, but has been before the Board in previous cases. For example, when shipping fruit jars, the rubber ring is included as a part of the jar, but, when the rubber rings are shipped separately, a different and higher rating governs; see page 128 of the Classification and Board's Judgments, Orders and Rulings, Volume 15, page 177, Section 28, *in re* Canadian Freight Classification No. 17.

In the application of the Howell Forwarding Company, Toronto, for a ruling of the Board concerning the rating applicable under the provisions of the Canadian Freight Classification on electric motors to be used as replacement parts for washing machines, such motors being included in a fifth-class car shipped under the distinctive heading of hardware, Volume 20, Board's Judgments, Orders and Rulings, page 374, there was presented for consideration a mixed carload shipment under the distinctive heading "Hardware," which, amongst other things, contained twenty-five electric washing machines equipped with motors, also nine cartons of electric motors. Washing machines, with electric motors as a part thereof, may be included in hardware cars at fifth class. It was not claimed that the motors in the nine cartons were for use in connection with any of the washing machines contained in this car, but were to be used as replacement parts for washing machines. The Board ruled that the nine cartons of motors were properly rated first class and not entitled to the carload rating under the heading of hardware.

The application of the Hudson Bay Company, Vancouver, for a ruling of the Board as to the proper classification of seat forms, or cushions, for chesterfields and chairs included with a carload shipment of mixed furniture, Volume 14, Board's Judgments, Orders and Rulings, page 195, covered a case where a car of mixed furniture was shipped, including, *inter alia*, several partially upholstered chesterfield suites and chairs, the said car also containing "seat or mattress forms" to complete both the chesterfields and chairs. In addition, there were included forty-eight chair and chesterfield "seat or mattress forms" which did not belong to any of the chesterfields or chairs contained in the car. There, the applicant pointed out that the extra "forms" were identical to those required to complete the chesterfields and chairs and it objected to different ratings being charged on identical articles. In its judgment, the Board pointed out that the article involved was intended to complete a particular article of furniture, was a component part thereof and given the advantage of the lower rate provided for the carload movement of furniture. It was there stated:—

"An article, if specifically set out under the Classification, has a rating taking into consideration the various factors affecting the place of an article in the Classification, e.g., value, bulk, risk or hazard in handling, liability to waste or damage in transit, method of packing for shipment, etc. The rating so fixed has no necessary relation to the rating of the article into which it may enter as a component part. The fact that it takes the rating of the larger article of which it becomes

a component part may mean as to this component part alone either a lower or a higher rating than it has when separate. In the present instance, the rating of the component part is lower. On the other hand, wooden-hooped barrels, N.O.S., have a rating of $1\frac{1}{2}$ times 1st class, L.C.L., and 7th class C.L., minimum 18,000 pounds. Wooden hoops have an L.C.L. rating of 4th class and a 10th class rating with a minimum of 24,000 pounds."

The application of the furniture rate on the "extra" forms was denied.

The present item in the classification covers "hall seats or stands *and* hall mirrors." Classification Rule No. 45 provides that "in the descriptions of articles for which ratings or rates are provided, 'and' is used to couple the descriptive terms between which it is used; 'or' is used where the description includes either or both of the descriptive terms between which it is used." It would seem from the foregoing that unless the item is amended to read "or" hall mirrors, the hall mirror rating governs only when the hall mirror is shipped along with and as a part of the hall seats or stands and that was not the case with respect to the shipments of mirrors in question. Further, there is no evidence showing that these mirrors were actually for use as "hall" mirrors.

The complainants' statement that the designs of furniture, and particularly with respect to the mirrors forming a part thereof, have undergone striking changes, but no change has been made in the classification, as shown at pages 2511 and 2512 of the record, is entirely disposed of by the statement made earlier herein that these mirrors, changed in design as they are, when a component part of an article of furniture are accepted under the heading of furniture.

Reference was made by complainants, although it has no relevancy to an interpretation of the present reading of the classification, to claims for breakage and methods of packing. It is stated that there have been no claims filed with the railways for breakage on shipments of mirrors, but that claims were filed for breakage of mirrors attached to bedroom suites. Mr. Ransom stated that if a freight claim agent found an unusually large number of claims for damage to any particular article, the matter is drawn to his attention and then taken up with the manufacturer to see what improvement may be made in packing and that they have had no such reports, either as to furniture or mirrors. It is stated that the mirrors shipped separately are wrapped or crated, padded and boxed; that the usual practice, with respect to mirrors as a component part of an article of furniture, is to detach the mirror and place it separately in the crate. These articles of furniture, if shipped wrapped or in crates, are subject to owner's risk of breakage and chafing (see Classification Rule No. 25). They are only free of this owner's risk condition when boxed. Mirrors are also accepted only at owner's risk of breakage, subject to the same classification rule. The packing conditions, therefore, are not relevant in any way to the question here presented concerning the correct classification rating.

While having no bearing on the issue here, complainants stated that these mirrors could be shipped through the United States to Vancouver in pool cars at lower charges than when shipped via the all-Canadian route. It was not claimed that they would be included in furniture pool cars through the United States and, as already stated, the carload ratings on furniture in the United States are appreciably higher than in Canada, so that it would not seem that furniture pool cars are referred to. The mixed carload arrangement within the United States differs in several respects from that applicable between Eastern and Western Canada. It was stated that the shipping of mirrors through the United States in mixed carloads would cost \$4.57 $\frac{1}{2}$ per 100 pounds. If they are shipped in carloads under the heading of glass in the Canadian Freight

Classification, the carload rate to Vancouver is \$3.58½ per 100 pounds. Of course, a comparison between the carload and the less than carload ratings, as used by complainants, has no probative value.

RULING

The ruling of the Board in this case is that when mirrors, such as covered by Exhibit No. 3 filed by the complainants, are sold and shipped separately and not as a component part of an article of furniture, they are covered by the items under the distinctive heading of glass in the classification and cannot, in the terms of the classification as at present worded, be included in carloads of furniture at fourth class rating, and, to describe them as "hall mirrors" when so shipped, is improper.

OTTAWA, ONTARIO, October 9, 1937.

Commissioner Stoneman concurred.

Complaints of Glass and Mirrors Company and the McLagan Furniture Company, Limited, Stratford, Ontario, regarding interpretation placed by the Canadian Freight Association upon the item covering Hall Seats or Stands and Hall Mirrors under the heading of Furniture in the Canadian Freight Classification.

File. No. 40319

GARCEAU, DEPUTY CHIEF COMMISSIONER:

According to the tariffs actually existing, the Canadian Freight Association is technically right in its submission, but I agree with the applicants and the Canadian National Railways' official that the interests of the railways and of the consumer would be better served if the mirrors mentioned, when padded or crated to minimize risks, could be considered as part of a furniture carload and subject to the same rate.

They are less bulky than furniture, are seen everywhere as hall mirrors, though used also in other rooms, and a slight amendment to this rate classification would help, in my opinion, the industry, the railways and the consumers.

The freight rate structure was declared antiquated—with much truth—by the ex-Minister of Railways, Hon. Dr. Manion (Hansard 1934, p. 2179), and it ought to be revised in order to meet new circumstances and new conditions, to help the railways to keep their traffic and the public to obtain a cheaper article.

In this instance, it appears on file that the American railways would accept the mirrors as part of a furniture carload and give a much cheaper rate. Until such regulations are amended, they are the law. "Dura lex, sed lex."

The application should be dismissed.

OTTAWA, October 25, 1937.

ORDER No. 55106

In the matter of the complaints of Glass and Mirrors Company and the McLagan Furniture Company, Limited, of Stratford, Ontario, regarding interpretation placed by the Canadian Freight Association upon the item covering Hall Seats or Stands and Hall Mirrors under the heading of Furniture in the Canadian Freight Classification.

File No. 40319

THURSDAY, the 28th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

Upon hearing the complaints at the sittings of the Board held at Kitchener, September 27, 1937, in the presence of representatives of the complainants and the Canadian Freight Association, and what was alleged,—

It is declared: That when mirrors, such as covered by Exhibit No. 3 filed by the complainants, are sold and shipped separately and not as a component part of an article of furniture, they are covered by the items under the distinctive heading of glass in the classification and cannot, in the terms of the classification as at present worded, be included in carloads of furniture at fourth-class rating, and, to describe them as “hall mirrors” when so shipped, is improper.

H. GUTHRIE,
Chief Commissioner.

Application of the Canadian National Railways for an Order requiring the Bell Telephone Company, the Consumers' Gas Company, Toronto Hydro-Electric System, and all utility companies whose plants are affected by Board's Order No. 54396, dated June 3rd, 1937, to remove their utilities at their own expense.

(File No. 26765.152)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application of the Canadian National Railways for an order to compel the Bell Telephone Company of Canada, the Toronto Hydro-Electric Power Commission, the Consumers' Gas Company, and all utility companies whose plants are affected by the Board's Order No. 54396, dated June 3, 1937, made in respect of an undercrossing at Victoria Park avenue lying between the township of Scarboro, the city of Toronto, and the township of East York, where Victoria Park avenue crosses the lines of the Canadian National Railways, and to remove their utilities at their own expense.

The application was heard at Toronto on September 29, 1937, in the presence of counsel for the Canadian National Railways, the city of Toronto, the township of Scarboro, the Bell Telephone Company, the Consumers' Gas Company, and the Toronto Hydro-Electric Power Commission.

By the above mentioned Order, No. 54396, it was ordered that a subway carrying Victoria Park avenue under the tracks of the Canadian National Railways be constructed on the town line between the township of Scarboro, the city of Toronto and the township of East York, as shown on plan dated September 30, 1930, on file with the Board; detail plans to be filed for the approval of an engineer of the Board. The Canadian National Railways were authorized to prepare plans and specifications to do the work of construction of the bridge

supporting their trains and any railway construction or reconstruction involved, and that the remainder of the work including paving be done by the applicant, the city of Toronto and the township of East York.

In carrying out the said work it will be necessary to cause the removal of certain plant and equipment of the Bell Telephone Company, of the Consumers' Gas Company, and of the Toronto Hydro-Power Commission. Upon the hearing of the matter it transpired that it will also be necessary to remove and alter the level of a certain water main which is under the jurisdiction of the Scarborough Township Public Utilities Commission.

The present application in regard to the work to be performed on Victoria Park avenue raises many questions which were considered in the application in respect of Eighteenth street, in the town of New Toronto, which application was heard by the Board on September 27, 1937. The facts in both of these cases present many similarities so far as the rights and interests of the public utilities companies are concerned, and it will not be necessary to repeat in this judgment much of the ground that was covered in the judgment pronounced in respect of the Eighteenth street project.

In his opening remarks before the Board counsel for the Bell Telephone Company stated that he recognized that in many points the facts and circumstances in the present case were similar to those presented in regard to the Eighteenth street crossing, and he intimated that the statements which he had made to the Board and the arguments he had based thereon in the Eighteenth street case be allowed to stand as part of his argument and submission in the present application. This request by counsel for the Bell Telephone Company was approved and noted upon the record. Counsel for the Bell Telephone Company then proceeded to state that in some respects there were distinctions between the two applications which he thereupon proceeded to discuss.

The first distinction pointed out by counsel for the Bell Telephone Company was that the telephone lines in the present application do not now cross the railway track, and will not do so after the work is completed, while in the Eighteenth street case the telephone lines crossed the railway.

The second distinction mentioned by counsel was that in the judgment of the Board upon the application for a subway in respect of Victoria Park avenue, it is stated in the judgment of the Chief Commissioner:—

“In my opinion, the application for a subway under the tracks of the Canadian National Railways upon Victoria Park avenue should be granted for the protection, safety and convenience of the public under the provisions of the Railway Act.”

while there was no such statement in the record of the proceedings nor in the Order of the Board made in respect of the Eighteenth street subway.

The third point of distinction between the two cases submitted by counsel for the Bell Telephone Company lay in the fact that under an Order of the Board, No. 50307, dated September 6, 1933, the Board expressly declared that the said crossing “is protected to the satisfaction of the Board,” and he also referred to a further Order of the Board for the installation of flood lights at Victoria Park avenue, which Order, No. 50548, is dated November 21, 1933.

The fourth point of distinction raised by counsel was in regard to the original application to the Board of the township of Scarboro, dated February 17, 1936, wherein it is stated, paragraph 4, “that by reason of the number of trains and the operation of numerous trains over the crossing, the ratepayers of the town of Scarboro and the public in general are deprived of the right to pass over the said crossing free from interference.”

The fifth point of distinction referred to was that in the estimates of the cost for the Victoria Park avenue subway, the cost of the public utilities was included, and counsel points out that in the estimate submitted with the appli-

cation an item of \$5,000 was included for "replacing telephone wires, lighting wires and lighting of subway."

Mr. Milliken, K.C., on behalf of the Consumers' Gas Company, submitted that that company would be affected by the work because it had a 12-inch gas main located about nine feet west of the east limit of Victoria Park avenue, and he contended that the proposed work would require lowering about 800 feet of this gas main to the new grade. A 12-inch main would have to be allowed as a temporary by-pass under the existing railway tracks west of the subway at an estimated cost of \$6,000, and that relaying the existing 12-inch main in the subway after the grade is completed would cost about \$4,000, or a total estimated cost of \$10,000.

Counsel for the Consumers' Gas Company cited the various statutes of the province of Ontario which vested in the company power to lay gas mains upon municipal streets, and he also referred to the company's supplementary letters patent, dated April 15, 1913, which authorized the Gas Company to extend its works and pipes within the townships adjoining the limits of the city of Toronto and the limits of the township of York. Counsel for the Consumers' Gas Company also submitted that once a gas main was laid it becomes part of the land within the meaning of the Municipal Act, and that the company cannot be deprived of its rights without compensation, and he cited as an authority upon this point, *City of Toronto vs. Consumers' Gas*, 1916, 2 A.C. 618. Counsel for the Consumers' Gas Company adopted the argument of counsel for the Bell Telephone Company in regard to the other matters which were argued both in this and in the Eighteenth street case.

Counsel for the Toronto Hydro-Electric Commission stated that the Toronto Hydro-Electric Commission would offer no objection to an order being made against that commission for removal of their plant, at their own expense. He stated that the amount involved in connection with the Toronto Hydro Commission was trifling and for that reason no objection would be offered by the commission.

I do not think it will be necessary in this judgment to repeat what I said in the judgment which I delivered in the Eighteenth street application. Where the facts and circumstances in the two applications are similar, my remarks in the former case will apply to the facts and circumstances in the present case, so I shall confine what I have to say in regard to the present application to a consideration of those points raised by counsel for the Bell Telephone Company which were not considered in the other application.

As to the first point, namely: that the lines of the Telephone Company do not cross the railway track. I have only to say that the telephone lines and poles do occupy portions of Victoria Park avenue where levels will have to be altered and work done in the construction of the subway. I do not think it makes any difference whether the lines of the Telephone Company actually cross the railway tracks or not. These lines are at present upon the street which has to be altered in carrying out the work ordered by the Board, and in this respect I would refer to the case of *Canadian Pacific Railway vs. Toronto Transportation Commission* reported in 1930 Appeal Cases 686, and to that part of the judgment which refers to the Royce avenue subway, where it was held by the Privy Council that the Toronto Transportation Commission was a party "interested or affected" although the tracks of the Toronto Transportation Company did not go through the subway or cross the railway. I hold that in the present application the Bell Telephone Company is "a party interested or affected" by the construction of the subway, which is a work designed to remove a public danger due to the presence of a level crossing over the railway tracks at Victoria Park avenue—and to quote the language of the judgment of the Privy Council referred to, at p. 702—"in the manner best calculated to suit the convenience of all concerned."

In regard to the second distinction pointed out by counsel for the Bell Telephone Company, I do not think this distinction is material. The fact that the statement is contained in the judgment as above set out should, I think, be conclusive as to what influenced the minds of the Board when making the Order.

In regard to the third distinction, I have only to point out as I did at the hearing, that by section 309 (c) of the Railway Act it is provided that where any person or animal has been struck by a moving train at a level crossing and bodily injury or death has followed, no train shall pass over the crossing at a speed greater than ten miles an hour unless and until such crossing is protected to the satisfaction of the Board. Order No. 50307 referred to by counsel for the Bell Telephone Company was an order of this nature. An accident had happened at Victoria Park avenue crossing, which is a level crossing, and personal injury had resulted and as a consequence the speed limitation under section 309 (c) became applicable and could not be removed until the Board declared that the crossing was protected to its satisfaction. Wherever an accident happens at rail level crossings which results in personal injury the ten mile speed limit automatically applies and continues until the Board has had an opportunity of inquiring into the accident through its inspectors. If satisfied that the railway was not at fault an order issues removing the speed restriction in the language of the order above quoted. I may say that Order No. 50307 is the standard form of Order adopted by the Board for the past twenty-five years and is applicable only to the removal of the speed limit after an accident has happened at a rail level crossing. Under these circumstances, I cannot give effect to counsel's argument based thereon that the Board had expressly approved the protection afforded at Victoria Park avenue crossing by its Order in 1933.

In regard to the fourth distinction pointed out by counsel for the Bell Telephone Company, I have only to say that while paragraph 4 of the original application of the municipality was in the language quoted by counsel, paragraph 5 contains the following allegation:—

"5. The crossing has become dangerous to the travelling public."

In my opinion paragraphs 4 and 5 of the application fully comply with the requirements of the Railway Act when an application is made to the Board under Section 257 of the Railway Act for protection at a level crossing. The facts and circumstances subsequently adduced before the Board justified the allegations contained in paragraphs 4 and 5 of the application.

In regard to the fifth point of distinction mentioned by counsel for the Bell Telephone Company, namely, that an item of \$5,000 was included in the original estimate of the cost of the work at Victoria Park avenue, I have only to say that this was only a preliminary estimate and has only been treated as such all through the proceedings. The engineer who prepared the estimate was the private engineer of the municipalities and I assume that he intended to give a general idea of what the whole work would probably cost. I find that there is nothing binding or conclusive upon this Board in respect of any estimate which has been submitted, nor should the Board draw any inference as to the distribution of cost from such an estimate. The Board has not considered the \$5,000 item to which special reference has been made by counsel. It might also be pointed out that there is nothing in the estimate for the removal of the Consumers' Gas Company's plant, nor for the water main of the municipality of the township of Scarborough, which are just as much public utilities as the Bell Telephone Company and the Toronto Hydro-Electric Power Commission.

Mr. Milliken in addition to adopting the argument submitted by counsel for the Bell Telephone Company upon matters which were common to both utility

companies also submitted that the Consumers' Gas Company should not be compelled to move its pipe lines unless compensation were first made to it, and in supporting his contention he cited the case of the Corporation of the City of Toronto vs. Consumers' Gas Company of Toronto, reported in Vol. 2, 1916 A.C. p. 618. In my opinion this case has no application to the proposed work at Victoria Park avenue. The decision in the above case is briefly, that the Gas Company's plant had become "land" under the provisions of the Ontario Municipal Act and could only be expropriated upon payment of compensation. In my opinion the provisions of the Ontario Municipal Act have no application to the case now under consideration. Sections 257, 259 and 39 of the Railway Act apply to the work ordered by the Board at Victoria Park avenue. I find that the Consumers' Gas Company is a party interested or affected by the above order, and I do not consider that the provisions of the Ontario Municipal Act have any application in the present instance.

After considering all that was urged by counsel for the utility companies, both in the Eighteenth street application and in the present application, I have concluded that the above named utility companies are all parties interested or affected by the above work within the provisions of sections 39, 257 and 259 of the Railway Act, and I also repeat the conclusion which I expressed in the judgment of May 3, 1937, "that this work is for the protection, safety and convenience of the public."

I think an order should be made in this case that the Bell Telephone Company, the Consumers' Gas Company and the Toronto Hydro-Electric System be ordered to remove their respective plant and equipment from Victoria Park avenue as soon as the railway is ready to proceed with the work; that the work of removal of such plant should be undertaken by the respective companies; and that the cost of removal and restoration of same should be paid by the respective utility companies. The order should also provide that the water main now under the railway track upon Victoria Park avenue should be removed and relocated by and at the cost of the township of Scarboro.

October 9, 1937.

Commissioner Stoneman concurred.

Application of the Canadian National Railways for an Order requiring the Bell Telephone Company, the Consumers' Gas Company, Toronto Hydro-Electric System, and all utility companies whose plants are affected by Board's Order No. 54396, dated June 3, 1937, to remove their utilities at their own expense.

File No. 26765.152

GARCEAU, DEPUTY CHIEF COMMISSIONER (Dissenting):

This is an application of the Canadian National Railways for an order to compel the Bell Telephone Company of Canada and other utilities whose plants are affected by the Board's Order No. 54396 made in respect of an undercrossing at Victoria Park avenue, lying between the township of Scarboro, the city of Toronto and the township of East York, to remove their utilities at their own expense.

This application raises the same question which was considered in my judgment on the application in respect of 18th street, in the town of New Toronto, file No. 37615.

The facts of the present application are fully stated in the majority judgment.

With due deference for the opinion expressed in the majority judgment, I believe that the utilities should be reimbursed.

The Board, by its Order No. 54396, above referred to, has already apportioned the cost between the "interested parties" and in this apportionment of cost no mention is made of the public utilities.

The Canadian National Railways' company was authorized to prepare plans and specifications, to do the work of construction of the bridge supporting its tracks and any railway construction or reconstruction involved, the city of Toronto and the township of East York to do the remainder of the work, including the paving.

It is on file that the utilities are willing to remove their plants, but they want to be reimbursed.

None of the utilities were called to any hearing prior to the issuance of the order in question. They were not called because they were not considered "interested" or obliged to protect the public against the dangers involved in railway operations, as they do not contribute to the danger nor would derive any benefit from the proposed construction for the protection, safety and convenience of the public.

The utilities are private companies. They have statutory obligations specifically determined as to how and where they can locate their plants and equipment on highways crossed by railways, and when they have fulfilled these statutory requirements, their obligations towards the protection, safety and convenience of the public are over and I submit the Board has no authority to add to their obligations towards the protection, safety and convenience of the public.

This duty of protection rests on the party creating the danger or deriving benefit from the protective works; also, on public bodies such as municipal corporations, legislatures.

This proposition is corroborated by the dispositions of the Railway Act in any case where, in the interest of the protection, safety and convenience of the public, works are to be done.

In this instance, the Board's order concerning the construction of this sub-way was made under the authority of section 257, as the proposed works are to be built to protect an existing crossing.

The Board's order apportioning the cost was made under the authority of section 259.

These two sections indicate who should bear the cost of the whole undertaking.

Section 257 (1) reads as follows:—

"Where a railway is already constructed upon, along or across any highway, the Board may, of its own motion or upon complaint or application, by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway, and may cause inspection of such portion, and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, and that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction in the opinion of the Board arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected."

It is evident that the utilities could not make this application for they were not a corporation or a person aggrieved and the section specifically determines who are the possible parties to such an application.

Section 259 reads as follows:—

“Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of the next following section of this Act, order what portion, if any, of cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board, under any of the last three preceding sections, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order.”

Here again, the only parties that can be ordered to bear the cost of construction are those who can make the application for this section says that those who can be ordered to pay are those mentioned in “any of the last three preceding sections,” and section 257 is one of them.

This is the interpretation given to these two sections by the Supreme Court in the case of *Toronto Railway Company v. City of Toronto and C.P.R.*, 20 C.R.C., p. 280. In that case the Supreme Court was interpreting Section 238 (1) and (3) enacted by 8 and 9 Edward VII, chap. 32, which are now sections 257 (1) and 259. As these sections are the identical reproduction of the above mentioned section (238), the reasoning given then applies. At page 304, 20 C.R.C., Justice Anglin said in relation to the judgment of *B.C. Railway Co. v. Vancouver, Victoria and Eastern Ry. Co.*, 17 D.L.R. p. 91:—

“There is no allusion in their judgment to sec. 238, as enacted by 8 and 9 Edw. VII, ch. 32, the third subsection of which in explicit terms empowers the Railway Board to apportion amongst the “company, municipal or other corporation or person” on whose complaint or application it might have proceeded, the cost of any works or protection which it might order under subsection 1. There was no similar provision in sec. 238 of the Railway Act as it appears in ch. 37 of the R.S.C. of 1906, and, if I may make the suggestion without disrespect, it would almost seem that the provisions of the amendment in 8 and 9 Edw. VII had escaped their Lordships’ attention.”

“It is not at all improbable that one of the chief sources of danger in the case of Avenue Road was the crossing at rail level at the foot of a steep hill of the double tracks of the C.P. Railway by the double tracks of the Toronto Railway. *The advantages to the latter company of the subway crossing are obvious. That it was affected by the order and interested in the works seems to me to be as indisputable as that it was a corporation on whose complaint the works might have been made.* This case is therefore in several respects clearly distinguishable from that of *B.C. Elec. R. Co. v. Vancouver, Victoria and Eastern R. Co.*, as viewed by their Lordships of the Judicial Committee. With great respect, assuming jurisdiction, the facts that the presence and operation of the Toronto R. Co. at the crossing had very largely contributed to the danger to be removed and *that the substituted method of crossing would be distinctly advantageous to it*, seem to me most cogent reasons for requiring it to contribute to the cost of making the necessary change.”

It must be remembered that the interest or the advantages of a person interested or aggrieved is not a reason for the ordering of the separation of grades and the construction of the subway but a ground for imposing a part of the cost of its construction. At page 306, we read:—

"The commissioner probably thought it advisable, however, in view of the fact that when making the order for distribution of cost he had specially alluded to the undoubted advantages which the Toronto R. Co. would derive from the substitution of the subway for a level crossing, to state explicitly that the action of the Board in directing that substitution had been influenced by the danger of the existing level crossing. He had referred to the incidental advantages of a subway to the Toronto R. Co., *not as a reason for ordering the separation of grades and the construction of the subway but as a ground for imposing 10 per cent of the cost on that company.*"

It must be noted, also, that in the sections of the Railway Act concerning the jurisdiction and powers of the Board, the complainant must be a party "interested" (section 33) or "aggrieved" (section 35), which means that the works proposed must benefit them, remedy to a wrong.

The Railway Act applies the following principle: "No person can bring an action unless he has an interest therein" (C.C., 77), but the converse is equally true: no judgment can be rendered against any party unless he is found obligatee or debtor on account of legal or contractual enactments.

In this instance, even if section 39 (2) applies instead of section 259, the latter is at least a guide to the discretionary powers vested in the Board by section 39 (2).

The jurisdiction and the powers of the Board are to be found within the four corners of the Railway Act and in any Special Act conferring jurisdiction to the Board and unless there is a disposition contrary or different to section 259, the Board must follow its directions, for section 39 says: "*When the Board, in the exercise of any power vested in it . . .*"

A tribunal, in interpreting the law, must always try to find the intention of the legislator.

We have section 164 of the Railway Act which orders the railway, when it removes the plants of the utilities, such as in this case, for the building of its enterprise, to compensate them. Section 164 says:—

"The company shall, in the exercise of the powers by this or the Special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the Special Act provided, to all persons interested, for all damage by them sustained by reason of the exercise of such powers."

The same obligation is imposed in similar circumstances to municipal corporations—Ontario Municipal Act, 1927.

Moreover, the whole economy of the Railway Act is to the same effect; whenever private property is taken for railway operations, railway building, etc., compensation is provided.

This is a universal principle of law always followed by civil courts, and the Board is a Court of record, "having, for the purpose of the Railway Act, full jurisdiction to hear and determine all matters whether of law or of fact"—Section 33 (2).

The discretion vested in the Board by section 39 must be exercised judicially and not arbitrarily.

"The jurisdiction of the Court, under section 25, subsection 8, of the Judicature Act, 1873, is discretionary, and every judge in exercising his discretion must exercise it judicially, not arbitrarily, or too widely." (Chitty, L. J., in *John v. John*, 67 L.J. ch. 618.)

Up to now, I have considered the responsibilities or, rather, the lack of responsibilities or obligations of the utilities, mentioned in the application of the railway, under sections 39 (2) and 259, to provide directly or indirectly protection to the public against the danger of railway operations; but, the absence of responsibility is more evident when they are ordered to do the work under section 39 (1), as in the present instance.

There is no question of apportionment of costs of the whole enterprise; this has been done. The railway is asking only that a part of the work assigned as its undertaking be done at the expense of the utilities.

"We see no reason to doubt that, in the exercise of the powers therein given, the Board may direct part of the work to be executed by one person and another part to be executed by another person. The moving of the utilities of the appellants as directed would obviously be part of the works designed and which could competently be ordered. It would seem, moreover, that the moving could be done much more advantageously by the companies owning and operating the utilities. So that, in the carrying out of the present orders, each company is called upon to contribute its part of the work in the manner best calculated to suit the convenience of all concerned. Nor are we impressed by the contention that the relevant sections of the Act so interpreted are likely to work hardship. It need not be repeated that this is a matter for Parliament's concern, which must not influence the construction of statutes where the intention is clear. But it may not be out of the way to point out that section 39 gives ample scope to the Board for making for provisions as to time, terms, conditions, and "as to the payment of compensation or otherwise," as may be found necessary to meet all situations, and for clothing the orders it makes under it with all the guarantees of fairness." (39 C.R.C. 186, at p. 198).

The utilities are willing to do the work mentioned in the application, but as "contractors" only and insist on being reimbursed for the expense they will incur.

The Board has all the administrative authority to determine by whom the work shall be done, but has only *judicial* powers to determine who shall pay.

This doctrine, contemplated by the Supreme Court in the case above quoted, was affirmed in no uncertain terms by the Lords of the Privy Council in the case of *Consumers' Gas Co. v. City of Toronto*, in 1916, (30 D.L.R., p. 590) which is quoted in my judgment *re* 18th Street subway, New Toronto, Ont. (file No. 37615). Lord Shaw, at p. 591, says:—

"These operations were not brought about in the interest or for the purposes of the gas company, but of the corporation, which, however, was acting undoubtedly *in the public interest*. Upon whom—the city or the gas company—is the expense of the displacement and replacement of the gas pipes to fall? This is the question in the case."

"In the opinion of their Lordships, it is within the right of the city, in constructing a drain, to order the lowering of the gas main, but it is the *duty* of the corporation to pay the cost of the operation."

at p. 595:—

"All that is asked in the present case is that the displacement and replacement of the pipes shall be paid for. Without compensation the city would not be empowered to make such displacement, and the measure of injurious affection, namely, the cost of the operation, would seem to be fully covered accordingly by the terms of the Act of Parliament."

This last consideration applies specifically to 39 (1) which gave administrative powers to the Board to determine by whom the work was to be done, because it gave at the same time the judicial duty to order compensation.

That is exactly the situation here. In the public interest, and involved in the construction of the subway deemed necessary for public safety, power is given the Board under sections 257 and 39 (1) to order the removal of the public utility plants. If, however, the Privy Council decision is to be applied, its exercise carries with it the corresponding *duty* to see that the displacements and replacements of the utilities "shall be paid for."

Further, the British North America Act, section 92, confers exclusively to the provinces the legislative authority to deal with property and civil rights (subsection 13) which, under provincial legislation, cannot be interfered with injuriously or taken away without compensation. While within the right of the Board, as necessarily incidental to the exercise of its powers to order the removal of the utilities' equipment, the spoliation or the injurious affection of the utilities, is not necessarily incidental to the exercise of such powers, and it is doubtful, therefore, if Parliament can constitutionally do so. But, Parliament has not done so. Compensation, it will be noted, is provided, for example, by sections 39 (1), 164, 171. The majority judgment of the Board, however, in refusing compensation, does so.

For the above reasons and those mentioned in my judgment *re* 18th street subway, New Toronto, Ont. (file No. 37615) I would reimburse the public utilities the cost of removing and replacing their facilities.

OTTAWA, November 3, 1937.

ORDER No. 55144

In the matter of the Order of the Board No. 54396, dated June 3, 1937, requiring the construction of a subway carrying Victoria Park Avenue under the tracks of the Canadian National Railways on the town line between the Township of Scarboro, the City of Toronto, and the Township of East York, in the County of York and Province of Ontario; apportioning the cost of construction; and reserving for further consideration the question of the cost of maintenance;

And in the matter of the application of the Canadian National Railways for an Order requiring the Bell Telephone Company of Canada, the Consumers' Gas Company, the Toronto Hydro-Electric System, and all utility companies whose plants are affected by the said Order No. 54396 to remove their utilities at their own expense.

File No. 26765.152

THURSDAY, the 4th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the matter at the sittings of the Board held at Toronto, September 29, 1937, in the presence of counsel for the Canadian National Railways, the Bell Telephone Company of Canada, the City of Toronto, the Township of Scarboro, the Consumers' Gas Company, and the Toronto Hydro-Electric System, and what was alleged, counsel for the said Toronto Hydro-Electric System consenting,—

It is ordered:

1. That the Bell Telephone Company of Canada, the Consumers' Gas Company, and the Toronto Hydro-Electric System be, and they are hereby, directed to remove their respective plants and equipment from the said Victoria Park avenue as soon as the Canadian National Railways are ready to proceed

with the work of constructing the subway; the work of removing such plants and equipment to be undertaken by the respective companies; and the cost of removing and restoring the same to be paid by the respective utility companies.

2. That the water main now under the tracks of the Canadian National Railways on Victoria Park avenue be removed and relocated by and at the expense of the township of Scarborough.

H. GUTHRIE,
Chief Commissioner.

Complaint of the Western Produce Company, Toronto, Ontario, regarding assessment of Demurrage Charges for delay in unloading cars caused by inclement weather conditions.

File No. 1700.402.

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This complaint was heard at Toronto on September 28 and 29, 1937, in the presence of representatives of the complainant, the Canadian Car Demurrage Bureau and the Canadian National Railways.

Complaint is made concerning demurrage and detention charges assessed by the Canadian National Railways for delay in unloading, by the Western Produce Company, of 16 cars of fruits and vegetables which reached Toronto during the latter part of the month of April, 1936. The cars in question were placed for unloading between April 24 and 28 and released, by unloading, between April 29 and May 12.

Complainant states the railway is assessing these charges for rainy days which, according to the tariff, should be exempt. Exemption is claimed for April 28 and 29 under the provisions of rule 5(a) of the Canadian Car Demurrage Rules, reading:—

“If wet or inclement weather, according to local conditions, renders loading or unloading impracticable during business hours, or exposes the goods to damage, the free time allowance shall be extended so as to give the full free time of suitable weather. If, however, the cars are not loaded or unloaded within the first forty-eight hours of suitable weather no additional free time shall be allowed.”

This rule has been in force since 1906 and there have been very few complaints to the Board concerning its administration by the Canadian Car Demurrage Bureau. Obviously, railway agents must, at times, experience difficulty in interpreting and applying the rule fairly to all concerned and without discrimination. The weather may be sufficiently inclement to expose certain goods to damage, but not preventing the handling of other goods. For example, it might expose cement or sugar to damage, but not stone, coal, etc. The corresponding rule in the tariff covering car demurrage rules and charges at United States points is more specific than the Canadian rule, reading:—

“Rule 8:

Section A.—Weather Interference

NOTE.—A consignor or consignee shall not be absolved from demurrage under Section A of this Rule if, considering the character of the freight, others similarly situated and under the same conditions, reasonably could and did load or unload cars during the same period of time.

1. When the condition of the weather during any part of the prescribed free time is such as to make it impossible to work at loading or unloading, or impossible to place freight in cars, or move it from cars

without serious injury to the freight, or when, because of high water or snow drifts it is impossible during the prescribed free time, to get to the cars for loading or unloading, the free time will be extended until a total of forty-eight hours free from such interference shall have been allowed. No additional time will be allowed unless claim, stating fully the conditions which prevented loading or unloading within the free time, is presented in writing to this railroad's agent within thirty days, exclusive of Sundays and legal holidays, after the date on which demurrage bill is rendered."

It will be observed that this rule does provide the agent of the railway with one yardstick by which to determine whether extension of free time should be allowed, namely, whether others similarly situated and under the same conditions reasonably could and did load or unload cars during the same period of time, and this Board, in the few cases coming before it concerning this rule in the Canadian tariff has also given weight to these considerations.

The report of the Meteorological Service of Canada, at Toronto, shows the weather conditions on April 28 and 29 were as follows:—

"Rainfall—

From 8 p.m. April 27 to 8 a.m. April 28—0·13".
 From 8 a.m. April 28 to 8 p.m. April 28—0·14".
 From 8 p.m. April 28 to 8 a.m. April 29—0·04".
 From 8 a.m. April 29 to 8 p.m. April 29—0·03".
 From 8 p.m. April 29 to 8 a.m. April 30—Trace

"Summary—

Raining from 11.40 p.m. April 27 to 12.45 a.m. 28; from 2.30 a.m. to 3.30 a.m., and from 4 a.m. to 8.30 a.m. Sprinkle of rain about 11 a.m. Rain from 1.50 p.m. to 8.15 p.m. on the 28th (light at first, moderate from about 3.15 p.m.)—Very light rain, continuing until 5.30 a.m. on the 29th. Intermittent light rain from 11.45 a.m. to 7.45 p.m. on the 29th and a trace of rain during the night of the 29th or morning of the 30th, exact time unknown."

The unloading of cars containing fruits and vegetables in Toronto by all receivers for the seventeen days beginning with April 18 and ending May 7, 1936, was as shown below:—

Date	Cars Unloaded	Date	Cars Unloaded
April 18	34	April 29	37
April 20	25	April 30	49
April 21	29	May 1	44
April 22	46	May 2	43
April 23	33	May 4	18
April 24	38	May 5	44
April 25	46	May 6	38
April 27	30	May 7	41
April 28	40		

The average unloading during this period was 37·3 cars per day. On April 28, the unloading of 40 cars was completed consisting of the following commodities:—

Bananas	4	Spinach	3
Onions	6	Cabbage	1
Carrots	3	Oranges	15
Lettuce	2	Potatoes	6

On April 29, 37 cars were released by unloading as follows:—

Bananas	3	Oranges	10
Lettuce	2	Potatoes	5
Mixed vegetables	1	Tomatoes	3
Spinach	1	Peas	1
Asparagus	4	Beets	1
Cabbage	5	Grape fruit	1

279 cars of other commodities were unloaded at Toronto on April 28 and 244 cars on April 29. During the same period, the cars released by unloading by the Western Produce Company were as follows:—

April 18	None	April 29	5
April 20	1	April 30	4
April 21	2	May 1	2
April 22	None	May 2	4
April 23	3	May 4	1
April 24	1	May 5	3
April 25	1	May 6	2
April 27	2	May 7	2
April 28	2		

The record further shows that, on April 28, from 8 different cars standing on track awaiting unloading by the complainant, unloading took place as follows:—

	Loads	Packages
Oranges	12	473 boxes
Lettuce	3	85 crates
Celery . . . . .	..	121 crates
Lemons . . . . .	..	60 boxes
Tomatoes . . . . .	..	153 lugs
Grape Fruit	2	31 boxes

On April 29, from nine different cars on track awaiting release by complainant, unloading took place as follows:—

	Loads	Packages
Oranges	18	..
Lettuce	9	144 crates
Celery . . . . .	..	56 crates
Lemons . . . . .	..	85 boxes
Grape Fruit	6	161 boxes
Onions . . . . .	..	73 bags

On April 30, following the two days for which exemption is claimed, complainant unloaded from seven different cars on track:—

Oranges	445 boxes
Lemons	35 boxes
Cabbage	70 hoppers
Tomatoes	35 lugs
Grape Fruit	135 boxes
Onions	52 bags

It will be noted that 923 packages were unloaded on April 28, while only 772 packages were unloaded on April 30.

Nine of the sixteen cars covered by this complaint contained oranges and the last car was not released until May 12. This was car No. 19204, containing oranges, which was placed available for unloading at 7 a.m. April 28. Unloading from this car was not commenced until May 9, on which date 15 boxes were removed. On May 11, 11 lots were taken out and the balance of 91 boxes removed before 7 a.m. of May 12.

Another car of oranges, No. 16539, was placed available for unloading 7 a.m. April 28. Unloading was not commenced until May 6 and the car was released May 9.

According to the record, the duty on oranges was increased 72 cents per case effective May 1, 1936. The railway company stated that it appeared that, on this account, complainant purchased an abnormal quantity of oranges just prior to the date of this duty coming into force and the supply seemed to be in excess of the demand for immediate sale, which explains delays in unloading such as covered by the examples above set out. The record indicates that complainant purchased 12 cars of oranges between April 1 and 22, while, between April 23 and 26, 12 cars were purchased by complainant. Complainant asserted that they have ample storage space and sufficient trucking equipment and in view of this, when pressed by the railway to give the reason for not unloading cars promptly, stated there were various reasons, but was not at all specific on this point, making the general statement that they may have been busy on other commodities, or that there was not an extreme demand for this product. As indicating

that weather conditions on April 28 and 29 were not such as to interfere with unloading oranges, reference was made to car No. 18224 from which 6 loads were unloaded on April 28 and the balance, 7 loads, removed on April 29. The record also shows unloading of oranges by complainant on these dates from other cars.

It appears to be a general condition that complainant does not unload numerous cars of various commodities within the free time, although, as stated, having ample facilities, and the explanation given was that their unloading was regulated by market demand and the method of conducting their business. At page 2771 of the record, the following discussion took place:—

Mr. RAND.—“That is all dictated by the running of your business? Can we lay that down?”

Mr. MERKER.—“I will concede to you that fifty per cent is market demand and fifty per cent is the conduct of business and you cannot go beyond that.”

Mr. RAND.—“I did not quite catch that.”

Mr. MERKER.—“Fifty per cent of the conditions existing in the fruit business is market demand and fifty per cent is general conditions of unloading, naturally. In other words, it means that when a car of oranges comes in and stays on the track, your buyers come down to buy and we bring it up as fast as we can to the warehouse. If we were to unload it all and throw it back in the warehouse the trade would not think it was fresh. It is a fifty-fifty proposition and not much more.”

Mr. RAND.—“I rather agree with you. That puts it really all up to factors with which the railway has nothing to do.”

Complainant stated that chain stores cannot postpone receivings during inclement weather, as it would upset their schedule of distribution, but that they generally do not unload on rainy days goods offered for sale, which is described by complainant as taking a load out of a car and placing it on the sidewalk outside of their premises for display to buyers. When asked to furnish a statement showing how many of the loads taken from the 17 cars on track on April 28 and 29 were delivered to the chain stores, complainant was not prepared to file this information.

Complainant has trucks with rack sides and carries tarpaulins and it is not clear that any damage would take place in unloading goods from a car to a truck which is run right up to the car door during a light or intermittent rain such as fell during portions of April 28 and 29. It was developed that lettuce, cabbage, etc., are transported with ice on top of the crates in the car which melts and drips down through the load while the car is in transit. Notwithstanding this, complainant contends that there is a difference between the wetting by melting ice and the wetting by a sprinkle of rain that might be encountered in unloading from car to truck, but did not explain the difference and furnished no satisfactory evidence on this point.

The position taken by complainant is that if there is any rain on a given date within the free time, that day should be exempt and extension of free time allowed, regardless of whether unloading cars goes on as usual on that day and a normal number of cars are unloaded.

The representative of the railway having supervision over car demurrage matters at Toronto and who has been handling them there for the past 25 years stated how Demurrage rule No. 5 is, and has been, uniformly administered during all this period. He stated the practice is, and has been, uniformly, that if the weather conditions are such as to prevent the receivers of these commodities from unloading normally and the unloading is below the average due to the

inclement weather, allowance is made for such days. Complainant stated that prior to and since the dates here in question, matters have been running smoothly and he had no complaint and had experienced no difficulty concerning allowance for weather conditions and suggested, but without producing anything in support thereof, that, for some reason, there had been a difference in treatment with respect to April 28 and 29, 1936, from the practice generally followed before and since that time. This was positively denied by the railway's car demurrage representative and complainant has furnished nothing to support his general statement.

Summarizing the record, it is shown that the unloading of fruit and vegetables by Toronto receivers on April 28 and 29, 1936, was normal; that all receivers, except the complainant, who were charged demurrage for the days in question paid it; that the complainant furnished absolutely no evidence indicating: (1) that their unloading was less than normal on these days; (2) that any damage was incurred with respect to the goods taken delivery of on these days.

In view of the foregoing, the meteorological service record, and all the other data hereinbefore set out with respect to the handling of these commodities on the dates in question, the Board clearly is not in a position to state that it considers the weather conditions on April 28 and 29, 1936, such as to justify it in directing that the free time should be extended under the provisions of Demurrage Rule No. 5 and the complaint will, therefore, be dismissed.

OTTAWA, ONT., October 16, 1937.

The Deputy Chief Commissioner and Commissioner Stoneman concurred.

ORDER No. 55052

In the matter of the complaint of the Western Produce Company, of Toronto, in the Province of Ontario, hereinafter called the "Complainant," regarding assessment of demurrage charges for delay in unloading cars caused by inclement weather conditions.

File No. 1700.402

WEDNESDAY, the 20th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*

Upon hearing the complaint at the sittings of the Board held at Toronto, September 28, 1937, in the presence of representatives of the complainant and the Canadian Car Demurrage Bureau, and of Counsel for the Canadian National Railways, and what was alleged,—

It is ordered: That the complaint be, and it is hereby, dismissed.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55037

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

THURSDAY, the 14th day of October, A.D., 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

The Board orders:

1. That the tolls published in item 250E from Cabano, Quebec, in Supplement No. 64 to Tariff C.R.C. No. E-1244, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Temiscouata Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportion of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 250E from Cabano, Quebec, in Supplement No. 64 to Tariff C.R.C. No. E-1244, approved herein, are as follows:—

To	Cents per 100 pounds	
	B	N
Copper Cliff, Ont.....}		
Sudbury, Ont.....}	6	7½

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 55038

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 16th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1057, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 9 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1057, approved herein, are as follows, namely:—

From	Rates in cents per 100 pounds								
	To								
	Montreal, Que.	Quebec, Que.	Three Rivers, Que.	Drummondville, Que.	Grand Mere, Que.	Megantic, Que.	Shawinigan Falls, Que.	Sherbrooke, Que.	Thedford Mines, Que.
Windsor, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	60 $\frac{1}{2}$	57 $\frac{1}{2}$	60	59
Falmouth, N.S.....									
Hantsport, N.S.....									
Avonport, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	59 $\frac{1}{2}$	57 $\frac{1}{2}$	59 $\frac{1}{2}$	58 $\frac{1}{2}$
Horton Landing, N.S.....									
Grand Pre, N.S.....									
Wolfville, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	61	57 $\frac{1}{2}$	60	58 $\frac{1}{2}$
Port Williams, N.S.....									
Kentville, N.S.....									
Mill Village, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	59 $\frac{1}{2}$	57 $\frac{1}{2}$	59 $\frac{1}{2}$	58 $\frac{1}{2}$
Centreville, N.S.....									
Sheffield Mills, N.S.....									
Hillaton, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	60 $\frac{1}{2}$	57 $\frac{1}{2}$	60	58 $\frac{1}{2}$
Canning, N.S.....									
Kingsport, N.S.....									
Billtown, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	60 $\frac{1}{2}$	57 $\frac{1}{2}$	60	58 $\frac{1}{2}$
Lakeville, N.S.....									
Woodville, N.S.....									
Grafton, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	60 $\frac{1}{2}$	57 $\frac{1}{2}$	60	58 $\frac{1}{2}$
Somerset, N.S.....									
Weston, N.S.....									
Coldbrook, N.S.....	52	53	51 $\frac{1}{2}$	53	57 $\frac{1}{2}$	60 $\frac{1}{2}$	57 $\frac{1}{2}$	60	58 $\frac{1}{2}$
Cambridge, N.S.....									
Waterville, N.S.....									
Berwick, N.S.....	52	52 $\frac{1}{2}$	51 $\frac{1}{2}$	57 $\frac{1}{2}$	57	61	57	59 $\frac{1}{2}$	58 $\frac{1}{2}$
Aylesford, N.S.....									
Auburn, N.S.....									
Kingston, N.S.....	53 $\frac{1}{2}$	55 $\frac{1}{2}$	54 $\frac{1}{2}$	58 $\frac{1}{2}$	58 $\frac{1}{2}$	61	58 $\frac{1}{2}$	57 $\frac{1}{2}$	58 $\frac{1}{2}$
Wilmot, N.S.....									
Middleton, N.S.....									
Brickton, N.S.....	52	52 $\frac{1}{2}$	51 $\frac{1}{2}$	57 $\frac{1}{2}$	57	61	57	59 $\frac{1}{2}$	58 $\frac{1}{2}$
Lawrencetown, N.S.....									
Paradise, N.S.....									
Bridgetown, N.S.....	53 $\frac{1}{2}$	55 $\frac{1}{2}$	54 $\frac{1}{2}$	58 $\frac{1}{2}$	58 $\frac{1}{2}$	61	58 $\frac{1}{2}$	57 $\frac{1}{2}$	58 $\frac{1}{2}$
Tupperville, N.S.....									
Round Hill, N.S.....									
Annapolis, N.S.....	51 $\frac{1}{2}$	52	51 $\frac{1}{2}$	57 $\frac{1}{2}$	57	58	57	58	58 $\frac{1}{2}$

One and one-half cents per 100 pounds to be deducted account of water haul.

S. J. McLEAN,

Assistant Chief Commissioner.

ORDER No. 55025

In the matter of the application of the Nelson & Fort Sheppard Railway Company, hereinafter called the "Applicant Company," under Section 323 of the Railway Act, for approval of by-laws dated October 9, 1937, authorizing the Passenger Traffic Manager and the General Freight Agent to prepare and issue passenger and freight tariffs of the tolls to be charged in respect of the railway owned or operated by the Applicant Company, and to submit the same to and file the same with the Board.

File No. 1298.2

TUESDAY, the 19th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*

Upon the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

It is ordered:

1. That the said by-laws dated October 9, 1937, authorizing the General Freight Agent and the Passenger Traffic Manager of the applicant company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the applicant company, and to submit the same to and file the same with the Board, the said by-laws being on file with the Board under file No. 1298.2, be, and they are hereby, approved.

2. That orders numbered 9242 and 41773, dated respectively January 12, 1910, and November 20, 1928, made herein, be, and they are hereby, rescinded.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 55045

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 19th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*

It is ordered: That the tolls published in the following tariffs, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 29 to Tariff C.R.C. No. E-2047
" 28 " " " " E-2564

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 55043

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 20th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published from Wapske, New Brunswick, in section 2 of Supplement No. 39 to Tariff C.R.C. No. E-4322, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said section 2 of Supplement No. 39 to Tariff C.R.C. No. E-4322, approved herein, are those shown for Group "B" rates in Tariff C.R.C. No. E-4203.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 55060

In the matter of the application of the Express Traffic Association of Canada, on behalf of the Canadian National Railways, Express Department, for permission to handle cartons of "Strike Anywhere" matches by express on passenger trains.

File No. 1717.13

SATURDAY, the 23rd day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*
G. A. STONE, *Commissioner.*

Upon the consent of the Railway Association of Canada, filed, and the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered:

That the proposed amendment to "Exceptions" on page 2 of Tariff C.R.C. No. 1114 of the Canadian National Railways, Express Department, be, and it is hereby, approved as follows, namely:—

"Acids, Inflammables, Oxidizing Substances, Explosives, etc. (except as authorized by C.R.C. No. E.T. 694, supplements thereto or reissues thereof). See Note.

"NOTE.—Not more than two cartons of "Strike Anywhere" matches, when shipped in their original containers, unopened, may be accepted with a shipment of groceries."

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55065

In the matter of the application of the Canadian Pacific Express Company, hereinafter called the "Applicant Company," for permission to cancel on less than statutory notice rates under Classes 1, 2, 3, and 4 between Saskatoon and Edmonton, published in Supplement 5 to its Tariff C.R.C. No. 1672.

File No. 27612.164

TUESDAY, the 26th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

Whereas the applicant company represents that the said rates were published to meet competition on the assumption that the Canadian National Railways would operate baggage car service between Saskatoon and Edmonton for the carriage of freight at freight rates; that the said service has not been put in operation; and that, under these conditions, it is desired to cancel the rates effective on less than statutory notice,—

It is ordered:

That the applicant company be, and it is hereby, granted leave to file, on three days' notice, an amendment to its Tariff C.R.C. No. 1672 cancelling the competitive rates between Saskatoon and Edmonton, as published in Supplement No. 5, and substituting therefor rates for the said Classes 1, 2, 3, and 4, as published in Canadian National Railways, Express Department, Tariff C.R.C. No. 1114.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55069

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 26th day of October, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

It is ordered:

That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 37 to Tariff C.R.C. No. E-2248

Supplement 13 to Tariff C.R.C. No. E-2448

Supplement 6 to Tariff C.R.C. No. E-2474

Supplement 29 to Tariff C.R.C. No. E-2564

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55102

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.15

FRIDAY, the 29th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 13 to Tariff C.R.C. No. 194, filed by the Fredericton and Grand Lake Coal and Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 13 to Tariff C.R.C. No. 194, approved herein, are:—

To	Cents per ton of 2,000 pounds
Fredericton, N.B.	} 1.15
North Devon, N.B.	

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 565

In the matter of the application of the General Chemical Company, of the City of New York, in the State of New York, for an Order amending the Regulations for the Transportation by Freight of Dangerous Articles other than Explosives, prescribed by General Order No. 203, dated August 11, 1917.

File No. 1717.1.12

WEDNESDAY, the 27th day of October, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon reading what is filed in support of the application and on behalf of the Railway Association of Canada; and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the Regulations for the Transportation by Freight of Dangerous Articles other than Explosives be, and they are hereby, amended as follows, namely:—

(a) by striking out paragraph 2 of Regulation No. 1852 (a), which reads—
“The necks of all carboys must be protected by wooden or metal hoods securely attached to the boxes.”

(b) by striking out the words, “and neck protectors well secured,” in Regulation No. 1895 (b).

S. J. McLEAN,
Assistant Chief Commissioner.

GENERAL ORDER No. 566

In the matter of the applications of the United States and Canadian carriers regarding freight tariffs filed with the Board covering traffic between points in Canada and points in the United States; between points in the United States through Canada; and import and export traffic between Canadian and United States ports and stations in Canada and the United States.

File No. 39422

MONDAY, the 1st day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Whereas the Interstate Commerce Commission, by its order dated Washington, D.C., October 19, 1937, has granted carriers operating in the United States of America certain increases in rates and charges, including international rates so far as they are subject to the jurisdiction of the said Commission, as set out in a report of the said Commission made part of its order, and, by Special Permission No. 164330, has granted the carriers authority to publish the said rates to become effective five days after the filing thereof with the Interstate Commerce Commission;

And whereas the United States and Canadian carriers have made application to increase international freight rates and charges between points in Canada and points in the United States, also import and export rates between Canadian and United States ports and stations in Canada and the United States, to the extent set forth in the report of the Interstate Commerce Commission;

And whereas the applicants have also requested authority to make the said rates effective on five days' notice after the filing thereof with the Board in respect of the rates referred to in the preceding paragraph hereof, as well as in respect of the rates applying on traffic carried between points in the United States through Canada;

And whereas it is deemed by the Board to be expedient in the public interest that the continuity of joint through rates from points in the United States to points in Canada, and vice versa, should be preserved; as well as to maintain port relationships on import and export traffic,—

Therefore, in pursuance of the powers conferred upon it by section 325 of the Railway Act, and of all other powers possessed by the Board in that behalf,—
It is ordered:

1. That the proportions of through rates and charges between the United States and Canada, in both directions, in effect on the date of this order, accruing within Canada, may be increased to the extent that the through rates and charges shall conform to the increases authorized by the said order of the Interstate Commerce Commission.

2. That the rates contained in freight tariffs applicable on import and export traffic moving through Canadian and United States ports to and from stations in Canada and the United States, when such import and export rates are constructed in relationship to those applicable within the United States, may likewise be increased to the extent authorized by the said order of the Interstate Commerce Commission.

3. That the rates and charges increased under the provisions of sections 1 and 2 hereof, as well as the rates applying on traffic carried between points in the United States through Canada, may be published and filed to become effective five days after the filing thereof with the Board, subject to the proviso that the resulting rates, in all respects, shall be subject to complaint and investigation and determination as to the lawfulness of schedules, rates or charges, as provided by the Railway Act.

H. GUTHRIE,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

54924. Oct. 1—Authorizing the Dept. of Highways and Transportation for Saskatchewan to construct a diversion of No. 14 Highway, just east of Saskatoon, Sask., and to close crossing over the C.P.R.
54925. Oct. 1—Declaring the C.P.R. crossing immediately north of Craighurst Station, Ont., protected to Board's satisfaction.
54926. Oct. 1—Authorizing the C.N.R. to make improvements to bridge on Portland ave., Mount Royal, Que.
54927. Oct. 1—Slightly amending Order No. 54864 *re* approval of clearances at loading dock of the General Motors of Canada, Ltd., Oshawa, Ont., to correct an error.
54928. Oct. 2—Approving traffic agreements between the Bell Telephone Co. and the Fenella Rural Telephone Co., Ltd., Westport Telephone Co. Ltd., and the Alnwick Rural Telephone Co., Ltd.
54930. Oct. 2—Approving proposed addition to C.N.R. bridge at mileage 110·7 Minaki Subdv.
54932. Oct. 2—Authorizing the C.P.R. to remove station agent at Puslinch Station, Ont.
54933. Oct. 1—Approving proposed realignment of branch line of railway serving Pembroke Shook Mills, Ltd., Pembroke, Ont. (C.P.R.)
54934. Oct. 2—Authorizing the C.N.R. to reconstruct bridges at mileages 123·2 Graham Subd., and 29·8 Gladstone Subdv.
54936. Oct. 2—Approving traffic agreements between the Bell Telephone Co. and the Harwood Rural Telephone Co. Ltd., the Haldimand Rural Telephone Co., Ltd., and the Telephone System of the Municipality of the township of Haldimand.
54937. Oct. 2—Authorizing the Rural Municipality of Cupar No. 218, Sask., to construct highway crossing over the C.P.R. at Cupar.
54940. Oct. 4—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
54941. Oct. 2—Amending Order No. 46263 requiring the C.P.R. to install bell and wigwag at highway crossing at Welsford, N.B.
54492. Oct. 4—Authorizing the C.N.R. to reconstruct bridges at the following mileages to and subdivisions: 3·0 Delta, 32·9 St. Brieux, 56·4 Telkwa, 47·8 Three Hills, 13·2 Delta, 30·8 St. Brieux and 46·6 Cowan.
54948. Oct. 5—Authorizing the C.N.R. to reconstruct bridges at the following mileages and subdivisions: 16·8 Harte, 3·3 Bulkley, 7·9 Miami, 10·4 Qu'Appelle, 59·2 to 59·57 Oakland, 6·5 Miami, 33·2, 17·7, and 13·9 Ste. Rose.
54958. Oct. 5—Authorizing the C.N.R. to remove station agent at Mallorytown, Ont.
54959. Oct. 5—Amending Order No. 54891 dated September 24, 1937, approving layout of C.N.R. station at Lac Dorey, Que.
54960. Oct. 5—Approving location and details of C.N.R. station at Bagot, Que.
54961. Oct. 5—Authorizing the C.N.R. and city of Fort William, Ont., to operate their trains and cars over the crossing of their railways adjacent intersection of Queen and James streets, Fort William, Ont.
54962. Oct. 5—Declaring the C.N.R. crossing at mileage 26·4 Oakland Subdv. protected to Board's satisfaction.
54963. Oct. 5—Refusing application of the Canada Cement Co., Ltd., for an order requiring the installation of signs and whistle posts at private crossing over the C.P.R., Hull, Que.
54964. Oct. 6—Authorizing the Dept. of Highways for Ontario, to construct highway crossing over C.P.R. in Upsala township, Thunder Bay District, Ont.
54965. Oct. 6—Authorizing the C.P.R. to construct a branch line to serve Rolland Paper Co., Ltd., County of Terrebonne, Que.
54966. Oct. 7—Declaring the C.N.R. crossing, third west of Cecile Diamond, mileage 51 Alexandria Subdv., protected to Board's satisfaction.
54967. Oct. 7—Declaring the C.N.R. crossing at mileage 35·5 Alexandria Subdv. protected to Board's satisfaction.
54968. Oct. 6—Relieving the C.P.R. from maintaining cattle guards at highway crossings at certain mileages on its Newport Subdv.
54969. Oct. 6—Declaring the C.N.R. crossings at mileage 150 Sprague Subdv. and 106·96 to 54970. Oct. 7 Tisdale Subdv. protected to Board's satisfaction.
54971. Oct. 7—Declaring the C.P.R. crossing at mileage 81·17 Windsor Subdv. protected to Board's satisfaction.
54972. Oct. 6—Approving the construction of the C.N.R. bridge at mileage 60·0 Tete Jaune Subdv.
54973. Oct. 6—Authorizing the C.N.R. to reconstruct bridges at the following mileages and to subdivisions: 1·3 Stettler, 56·8 Qu'Appelle, 20·2 Beechy, 97·5 Sangudo, 54980. 70·2 Neepawa, 138·5 Gladstone, 88·7 Sangudo, and 141·7 Gladstone.

- 54981. Oct. 8—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under sec. 9.
- 54982. Oct. 7—Authorizing the Dept. of Highways for Ontario to construct highway crossing over the C.N.R., township of Kendall, district of North Cochrane, Ont.
- 54983. Oct. 7—Declaring the C.N.R. crossing at mileage 10·30 Picton Subd. protected to Board's satisfaction.
- 54984. Oct. 7—Declaring the C.P.R. crossing at mileage 37·25 Windsor Subdv. protected to Board's satisfaction.
- 54985. Oct. 6—Authorizing the Dept. of Highways for Ontario to construct a highway crossing over the C.N.R. at mileage 0·65 Garson Branch.
- 54986. Oct. 7—Approving the clearances at siding serving the Empire Foods Corp. Ltd., at Essex, Ont. (New York Central Railway).
- 54987. Oct. 6—Approving reconstruction of portion of C.N.R. bridge at mileage 73·4 Skeena Subdv.
- 54988. Oct. 7—Authorizing the C.N.R. to cross Alma St. at Guelph Junction, Ont., with proposed track connecting their Fergus and Brampton Subdvs.
- 54989. Oct. 8—Authorizing the C.N.R. to operate bridge at mileage 85·1 Telkwa Subdv., and certain bridges on the Skeena Subdv.
- 54990. Oct. 8—Authorizing the C.N.R. to reconstruct trestle at mileage 14·2 Brazeau Subdv., and bridge at mileage 74·7 Sangudo Subdv.
- 54993. Oct. 8—Requiring the Dept. of Highways for Ontario to install double bells and wigwags at crossing of Arthur St., mileage 7·28 Kaministiquia Subdv.
- 54994. Oct. 12—Requiring the Pere Marquette Railway Co. to install two wigwags and one bell at each of the crossings of Victoria and Erie Streets, Ridgeway, Ont.
- 54995. Oct. 12—Requiring the C.N.R. to install double bells and wigwags at crossing of Highway No. 3, near Paynes, Ont.
- 54996. Oct. 12—Authorizing the Dept. of Highways for Ontario to construct highway crossing over the C.N.R. at the east end of their yard west of the Townsite of Jellicoe, Ont.
- 54997. Oct. 8—Authorizing the C.N.R. to reconstruct highway undercrossing at mileage 3·8 Dodsland Subdv.
- 54998. Oct. 8—Authorizing the C.N.R. to reconstruct highway undercrossing at mileage 66·5 Brazeau Subdv.
- 54999. Oct. 12—Authorizing the Dept. of Public Works for New Brunswick to change location of existing crossing of C.N.R. at mileage 113·68 Centreville Subdv. to eliminate a sharp reverse curve.
- 55000. Oct. 12—Authorizing the C.N.R. to operate under overhead highway bridge as reconstructed at Jones St., St. Mary's, Ont.
- 55001. Oct. 12—Authorizing the C.N.R. to maintain and operate their engines, etc., over siding constructed by Toronto Harbour Commissioners on Basin St., Toronto, to serve the Gair Co. of Canada, Ltd.
- 55002. Oct. 12—Authorizing the C.N.R. to operate their engines, etc., over siding to be constructed by the Toronto Harbour Commissioners on Carlaw Ave., Toronto, to serve the Gair Company of Canada, Ltd.
- 55003. Oct. 8—Authorizing the C.N.R. to reconstruct bridge at mileage 95·5 Sangudo Subdv.
- 55004. Oct. 13—Authorizing the Dept. of Highways and Transportation for Saskatchewan to divert Highway No. 11 and to close crossing over the C.P.R. in township 22, range 24, W2M.
- 55005. Oct. 12—Amending Order No. 51071 dated May 29, 1934, requiring the C.N.R. to install a wigwag signal at highway crossing at Matapedia, Que., to provide for remainder of cost of construction and the maintenance.
- 55006. Oct. 8—Authorizing the C.N.R. to construct a bridge at mileage 47·9 Gladstone Subdv.
- 55007. Oct. 12—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under sec. 9.
- 55008. Oct. 12—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under sec. 9.
- 55009. Oct. 14—Authorizing the Dept. of Public Works for Prince Edward Island to make certain improvements to existing crossings of the C.N.R. at specified points in the said province.
- 55010. Oct. 13—Declaring the C.N.R. crossing at mileage 30·59 Sackville Subdv. protected to the Board's satisfaction.
- 55011. Oct. 16—Authorizing the C.N.R. to cancel on less than statutory notice, rates published on cement, natural or portland, building, carloads, from St. Mary's, Ont. to various points.
- 55012. Oct. 12—Approving location of signals and wigwags at the crossing of the Suburban Rapid Transit Company's electric railway and the Oak Point Branch of the C.N.R. on Portage Ave., Municipality of St. James, Man.

- 55013. Oct. 12—Authorizing the C.N.R. to reconstruct bridge over the watercourse at mileage 96·7 Sangudo Subdv., Alberta.
- 55014. Oct. 12—Approving traffic agreement between the Bell Telephone Company and the Madawaska Telephone Association. Ltd.
- 55015. Oct. 12—Authorizing the C.N.R. to reconstruct the subway at York Ave., Winnipeg, Man.
- 55016. Oct. 12—Authorizing the C.N.R. to reconstruct bridge at mileage 95·1 Sangudo Subdv., Alta.
- 55017. Oct. 13—Slightly amending Order No. 54798 dated Sept. 7, 1937, to correct an error. (*Re* construction of branch line of the C.P.R. to serve the Texas Company of Canada Ltd., at mileage 98·4 Cranbrooke Subdv.)
- 55018. Oct. 14—Approving certain improvements to existing protection at crossings of Victoria and Albert Sts., by the C.P.R., Alliston, Ont.
- 55019. Oct. 12—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under sec. 9.
- 55020. Oct. 13—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 55021. Oct. 18—Authorizing the C.N.R. to operate over subway constructed at St. Georges Road, Grand'Mere, Que.
- 55022. Oct. 14—Authorizing the municipality of Paipoonge, Ont., to construct a highway crossing over C.P.R. at mileage 10, Kaministiquia Subdv.
- 55023. Oct. 19—Amending Order No. 54770 dated Aug. 31, 1937, to provide for one bell and two wigwags instead of double bells and wigwags at C.P.R. crossing at Pampdenec Station, N.B.
- 55024. Oct. 14—Approving clearances of proposed canopy to be erected over present loading platform on C.P.R. siding of Hinde & Dauch Paper Co. of Canada, Ltd., Toronto.
- 55025. Oct. 19—Authorizing certain officials of the Nelson & Fort Sheppard Railway Co. to issue freight and passenger tariffs.
- 55026. Oct. 19—Authorizing the Dept. of Highways for Ontario to construct highway crossing over the C.N.R. near Ormsby, Ont.
- 55027. Oct. 13—Approving service station contract between the Bell Telephone Co. and the Municipality of St. Joachim.
- 55028. Oct. 13—Approving traffic agreement between the Bell Telephone Co. and Anthony N. Mousseau, proprietor of the Calabogie and Renfrew Telephone Association.
- 55029. Oct. 15—Authorizing the C.N.R. to reconstruct bridge over the watercourse at mileage 72·8 Wabamun Subdv.
- 55030. Oct. 15—Authorizing the C.N.R. to reconstruct bridge over White Earth Creek at mileage 71·6 Coronada Subdv.
- 55031. Oct. 14—Declaring the C.N.R. crossing at mileage 45·15 Tignish Subdv. protected to Board's satisfaction.
- 55032. Oct. 14—Authorizing the C.N.R. to construct proposed sidings across Murray St., Brantford, Ont.
- 55033. Oct. 16—Authorizing the C.N.R. to reconstruct bridge over watercourse at mileage 75·0 Brazeau Subdv.
- 55034. Oct. 18—Authorizing the C.P.R. to construct branch line to serve St. Boniface Grain & Feed Company, St. Boniface, Man.
- 55035. Oct. 14—Authorizing R. G. McLeod, of Vancouver, B.C., to construct a tunnel under C.P.R. at Kanaka, B.C.
- 55036. Oct. 13—Requiring the C.N.R. to instal additional protection at Irishtown Road crossing, Sunny Brae, N.B.
- 55037. Oct. 14—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.N.R. under Sec. 3.
- 55038. Oct. 16—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55039. Oct. 14—Approving clearances at leading ramp at the C.N.R. team track siding at Bancroft, Ont.
- 55040. Oct. 19—Authorizing the C.N.R. to operate their trains over interlocking plant at Paris Junction, Ont.
- 55041. Oct. 18—Amending Order No. 54781 dated Sept. 1, 1937, *re* C.P.R. crossing in Town of Laval des Rapides, Que., to provide for slight change in protection.
- 55042. Oct. 16—Authorizing the Dept. of Roads for Quebec to construct an overhead bridge across the C.P.R. at mileage 19·2 Park Ave. Subdv.
- 55043. Oct. 20—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55044. Oct. 14—Extending the time within which the C.P.R. may construct a branch line to serve Consolidated Mining & Smelting Co. Ltd., at mileage 21·05 Rossland Subdv.
- 55045. Oct. 19—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.

- 55046. Oct. 20—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Montreal and Ottawa Subdv.
- 55047. Oct. 22—Approving tariff C.R.C. No. 6582 (2nd revised sheet 1), covering exchange rates of the Bell Telephone Co. at Ste. Agathe, Que.
- 55048. Oct. 22—Declaring the Great Northern Railway Company's crossing west of Hedley Station, B.C., protected to Board's satisfaction.
- 55049. Oct. 21—Declaring the C.P.R. crossing south of Inverlake Station, Alta., protected to Board's satisfaction.
- 55050. Oct. 22—Declaring the C.N.R. crossing near Allandale Station, Ont., protected to Board's satisfaction.
- 55051. Oct. 21—Declaring the C.P.R. crossing at mileage 69·31 Trois Rivières Subdv., protected to Board's satisfaction.
- 55052. Oct. 20—Dismissing the complaint of the Western Produce Co. of Toronto, Ont., regarding assessment of demurrage charges for delay in unloading cars caused by inclement weather conditions.
- 55053. Oct. 21—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Ste. Agathe Subdv.
- 55054. Nov. 3—Declaring the C.P.R. crossing at mileage 4·75 Trois Rivières Subdv., protected to Board's satisfaction.
- 55055. Oct. 21—Approving Traffic Agreement between the Bell Telephone Co. and the Ingersoll Telephone Co. Ltd.
- 55056. Oct. 22—Declaring the C.N.R. crossing at mileage 66·9 Drummondville Subdv. protected to Board's satisfaction.
- 55057. Oct. 22—Declaring the C.P.R. crossing at mileage 113·1 Lachute Subdv. protected to Board's satisfaction.
- 55058. Oct. 22—Authorizing the C.N.R. to construct spur across Railway Ave. and Queen St., North Battleford, Sask.
- 55059. Oct. 22—Approving proposed location of temporary C.N.R. station and freight shed on lands of Eastwest Exploration Co., Ltd., at Val d'Or, Que.
- 55060. Oct. 23—Approving proposed amendment to Exceptions on page 2 of Tariff C.R.C. No. 1114 of the C.N.R. Express Department.
- 55061. Oct. 23—Declaring the C.P.R. crossing at mileage 97·91 Stirling Subdv. protected to Board's satisfaction.
- 55062. Oct. 23—Declaring the C.N.R. crossing at mileage 9·8 Carman Subdv. protected to Board's satisfaction.
- 55063. Oct. 23—Declaring the C.N.R. crossing at mileage 46·3 Gladstone Subdv. protected to Board's satisfaction.
- 55064. Oct. 26—Authorizing the C.P.R. to construct a branch line across St. Patrick St., Montreal, for the Canada Packers Limited.
- 55065. Oct. 26—Granting the C.P. Express Co. leave to file an amendment to its Tariff C.R.C. No. 1672 cancelling competitive rates between Saskatoon and Edmonton, and substituting therefor other rates.
- 55066. Oct. 25—Declaring the C.N.R. crossings at mileage 12·52, Milton Subd., and at
- 55067. Norwich Ave., Woodstock, Ont., protected to Board's satisfaction.
- 55068. Oct. 23—Authorizing the Dept. of Highways for Nova Scotia to carry out certain changes in the alignment of a highway at the crossing of the C.N.R. near Hubbards, N.S.
- 55069. Oct. 26—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under sec. 3.
- 55070. Oct. 23—Authorizing the Dept. of Highways for Ontario to construct a highway crossing over the C.P.R. at mileage 63·5, Cartier Subd.
- 55071. Oct. 26—Amending Order No. 53433 dated Sept. 8, 1936, authorizing town of New Toronto, Ont., to construct a subway under the C.N.R. at Eighteenth St.
- 55072. Oct. 27—Authorizing the C.N.R. and C.P.R. to operate their trains over crossing at Ellwood, Ont., without being brought to stop.
- 55073. Oct. 23—Authorizing the Dept. of Highways for Nova Scotia to carry out certain changes in the alignment of highway at the C.N.R. crossing at East River, N.S.
- 55074. Oct. 25—Authorizing the C.P.R. to construct a branch line for the Canadian Celanese Limited at Drummondville, Que.
- 55075. Oct. 27—Authorizing the Dept. of Highways and Transportation for Saskatchewan to construct two diversions of highway in vicinity of Morse and Herbert in order to close two crossings of the C.P.R.
- 55076. Oct. 27—Declaring the C.P.R. crossing at mileage 1·04, Ste. Agathe Subd., protected to Board's satisfaction.
- 55077. Oct. 27—Authorizing the Niagara, St. Catharines & Toronto Railway Co. to construct private siding along certain streets in St. Catharines, Ont.
- 55078. Oct. 27—Authorizing the C.P.R. to construct a branch line to serve Haynes Co-operative Growers Exchange at Haynes, B.C.

55079. Oct. 27—Authorizing the C.P.R. to dismantle overhead bridge at Alexandra St. Extension, Saint John, N.B.
55080. Oct. 27—Approving clearances at loading ramp of Gypsum, Lime & Alabastine Canada, Ltd., at Falkland, B.C. (C.N.R.).
55081. Oct. 27—Authorizing the Dept. of Highways for Ontario to establish a permanent crossing at grade across the C.N.R. at mileage 54.48, Kapuskasing Subdv.
55082. Oct. 27—Authorizing the C.P.R. to remove shelter at Summerville Station, Ont.
55083. Oct. 27—Approving by-law of the town of Kentville, N.S., *re* sounding of engine whistles at certain crossings of the Dominion Atlantic Railway.
55084. Oct. 28—Extending time within which branch line may be constructed by the C.P.R. to serve Dominion Shuttle Co., Ltd., Township of Chatham, Ontario.
55085. Nov. 1—Declaring the C.P.R. crossings at mileages 170.3, Willingdon Subdv., 30.09
55086. Goderich Subdv., and 27.24, Port Burwell Subdv., protected to Board's
55087. satisfaction.
55088. Nov. 1—Declaring the C.N.R. crossing at mileage 28.99, Fergus Subdv., protected to Board's satisfaction.
55089. Nov. 1—Approving traffic agreements between the Bell Telephone Co. and the Com-
55090. Oct. 29 missioners for the Telephone System of the Municipality of the Township of Howick, and the Huntsville and Lake of Bays Telephone Co., Ltd.
55091. Nov. 1—Declaring the C.P.R. crossing at Sault Ste. Marie, Ont. (2nd west of Cathcart St.) protected to Board's satisfaction.
55092. Oct. 29—Approving Traffic Agreements between the Bell Telephone Co. and the
55093. Nov. 1 People's Telephone Co. of Forest, Ltd., the Sparta Rural Telephone Co.,
55094. Oct. 29 Ltd., the Allenford Rural Telephone Co., Ltd., the Loring, Golden Valley
55095. and Powassan Telephones Ltd., the Commissioners for the Telephone Sys-
55096. tem of the Municipality of the Township of East Ferris, and the Lambton
55097. Telephone Co., Ltd.
55098. Nov. 1—Authorizing the C.P.R. to construct a branch line to serve Swift Canadian Co., Ltd., at Hanover, Ont.
55099. Oct. 28—Approving revised location of C.P.R. line between mileage 21.4 and 23.4, Boundary Subdv., west of Nelson, B.C.
55100. Oct. 27—Approving the proposed location of unloading track of the Canadian Acme Screw & Gear Ltd., Toronto, Ont., for tank car and storage tank for propane gas.
55101. Oct. 28—Approving clearances at loading platform of the Aldermac Copper Corp., Ltd., at Aldermac, Que. (Nipissing Central Railroad Co.).
55102. Oct. 29—Approving under Maritime Freight Rates Act, sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Fredericton & Grand Lake Coal & Railway Co. under sec. 9.
55103. Oct. 28—Approving proposed location of new third-class station to be erected at Hyas, Sask., by C.N.R.
55104. Oct. 27—Refusing the application of the New York Central Railroad Co. for leave to substitute automatic wigwag signals and crossing bells at King St. crossing, Welland, Ont., for existing gates.
55105. Nov. 1—Authorizing the City of Kitchener, Ont., to construct two grade crossings over C.N.R.
55106. Oct. 28—Containing a ruling of the Board in the matter of complaint of Glass & Mirrors Co. and McLagan Furniture Co., Ltd., of Stratford, Ont., *re* interpretation placed by the Canadian Freight Association upon item covering Hall Seats or Stands and Hall Mirrors under the heading of Furniture in the Canadian Freight Classification.
55107. Oct. 29—Authorizing the New York Central Railroad Co. to change certain signals at crossing of the C.N.R. at Southwold, Ont.

The Board of
Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, December 1, 1937

No. 18

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Complaint of the Globe Trading Corporation, Limited, Montreal, Que., against charge made by the Canadian National Railways, for permitting carload shipments of Dried Beans to be stopped off at Montreal for inspection.

File No. 40449

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This complaint was heard at Montreal on the 15th instant in the presence of representatives of the complainant and the Canadian National Railways.

Complaint is made of a charge of \$5 per car made by the Canadian National Railways for permitting dried beans to be stopped at Montreal for inspection, while, on grain stopped for the same purpose, the charge is \$3 per car.

The stop-off arrangement on dried beans was established on July 24, 1935, and the railway states it was put in force at the request of the complainant who represented that it had a great deal of difficulty by having cars of beans destined to points east of Montreal refused at destination, or deliveries held up, due to the beans not coming up to expectation or agreement, resulting in samples having to be taken from the cars and sent to the complainant for inspection and adjustment before customers would accept delivery; that, obviously, the inspection arrangement is a valuable privilege which saves complainant considerable expense based on its original representations. The railway further states that it is an expensive service to perform, as it is necessary for the cars to be switched out of their regular run and placed on team tracks at Point St. Charles for inspection; that the lowest cost of switching that it has been able to determine for placing a car in the Montreal terminals is at least \$8, whereas, under the tariff, it only receives \$5 for this service. The stop-off arrangement on grain at a charge of \$3 per car has been in force for at least thirty years and, probably, a good many years before that and there is no record showing the basis for the charge if there was one. A large volume of traffic is handled under this arrangement and the railway has never modified the charge. At the time it was established, unquestionably, the cost to the railway of performing the service was much less than it is to-day.

While this complaint is directed against the Canadian National Railways, it may be stated that the Canadian Pacific Railway has the same arrangements in force at the same charges and there has been no complaint launched against the latter company's charges.

Some twenty-five years ago, the Canadian Pacific Railway proposed to cancel the stop-off arrangement on grain, but the Board, while permitting its cancellation at one of the Montreal terminals (Place Viger) and at Simcoe street and the Esplanade in Toronto, required its continuance at other points at which the stop-off was provided for. The question of the charge made was not then in issue and has never been dealt with by the Board; it was a question of continuance or discontinuance of the stop-off privilege.

There are numerous stop-off arrangements published by the railway on various commodities other than grain and all of them provide for a higher charge than made for grain. For example, there is a stop-off charge of 1 cent per 100 pounds on grain products, hay, potatoes, turnips, coal and coke. There are stop-off arrangements with varying charges on green apples, butter, cheese, eggs, lumber, etc.

The mere existence of the \$3 charge on grain does not, in itself, furnish justification for the Board directing the same charge on dried beans and other commodities. The question is whether the \$5 charge on dried beans is unreasonable *per se* and whether any unjust discrimination exists.

Upon the record, I cannot find that the \$5 charge is unreasonable *per se*. According to the statement of the railway, it is not equal to the cost of performing the service. From the standpoint of the complainant, a stop-off arrangement, established under the conditions and for the reasons already herein described, would seem to be beneficial and the difference between the charge made and that applied for is \$2 per car, or one-third of a cent per bushel on an article valued at \$2.25 per bushel at Montreal.

With respect to discrimination, in Volume No. 21, Board's Judgments, Orders and Rulings, page 2, it is stated:—

"A difference in rates may be discrimination, but not unjust discrimination of the character forbidden by the Railway Act. The interpretation of the Act in this respect and the position taken by the Board on the broad issue of unjust discrimination has been set out in a great many decisions of the Board and may be summed up by the following citations from two or three cases, which position has been uniformly followed in all other cases coming before the Board.

"The late Chief Commissioner, Hon. Mr. Mabey, in *Toronto and Brampton vs. Grand Trunk Railway and Canadian Pacific Railway Companies*, 11 C.R.C., 370, stated:—

'The Railway Act, as I understand it, authorizes and justifies discrimination. It is only an undue, unfair, or unjust discrimination that the law is aimed against.'

In 18 C.R.C., 424, *Cuneo Fruit and Importing Company vs. Grand Trunk Railway*, it is stated:—

'Discrimination may or may not fall within the provisions of the Act. The Act, as it has always been interpreted by the Board, only forbids discrimination when it is undue or unreasonable.' In *re Western Tolls*, 17 C.R.C., 123, pages 148 to 156."

At page 24, in the same case, it is stated:—

"In Volume 12, Board's Judgments and Orders, page 268, *Complaint of the Spanish River Pulp and Paper Mills, Limited*, at pages 278 and 279, it is stated:—

'In dealing with the question of discrimination, the matter of detriment, if any, to which the applicant is subjected by the alleged unjust discrimination or undue preference must be considered. Difference in rates is discrimination; but the prohibitions of the Railway Act in regard to discrimination are prohibitions of unjust discrimina-

tion or undue preference, and the question is whether the discrimination amounts to an unjust discrimination or undue preference.' In *re Western Tolls*, 17 Can. Ry. Cas., 123, at pages 148 to 156.

'One criterion of unjust discrimination is whether the district alleged to be discriminated in favour of has profited at the expense of the locality against which it is alleged the discrimination has taken place.'

Wegenast v. G.T.R. Co., 8 Can. Ry. Cas., 42, at page 45.

Toronto and Brampton v. G.T.R. and C.P.R. Cos., 11 Can. Ry. Cas., 370, at page 375.

Massiah v. C.P.R. Co., Board's Orders and Judgments, Vol. 4, page 106.

'In *Ontario Paper Co. v. G.T.R. Co.*, 24 Can. Ry. Cas., 177, no evidence was submitted that any rate advantage possessed by any competitor had rendered it more difficult for the applicant company to do business, and the allegation of unjust discrimination was held to be unfounded.'

'Evidence is required as to how rates complained of react to the detriment of the applicant.'

Zwicker and Co. v. Can. Nat. Rys., Board's Orders and Judgments, Vol. 12, No. 16, at pages 152, 153.

The ultimate test of discrimination is to be found not in difference of rates but in the question whether as a result of this difference an injury is worked to an individual or locality. One test of this is whether the locality alleged to be favoured actually gets into a common market on a lower rate. The rate paid rather than the distance travelled is important.

In *re Telegraph Tolls*, 20 Can. Ry. Cas., 1, page 23.' "

In cases before the Board, there has been raised the question whether there is unjust discrimination if it is found that the carriers, for similar transportation service, obtain a greater revenue in some cases than in others and, in Volume 21, Board's Judgments, Orders and Rulings, at page 8, it is stated:—

"We do not consider it is necessary here to make any extended comment on the point raised by applicant, not only with respect to the rates here referred to, but also with regard to import rates and international rates which are later dealt with herein; that there is unjust discrimination if it is found, as it is, that the carriers, for similar transportation service, obtain greater revenue in some cases than in others. This is a subject concerning which a great deal could be said. It is a general condition throughout the rate structure in any country in the world and it is just as much in the interest of the shipping public and necessary to the development of business as it is to the interest of the carriers to enable them to develop and encourage the free movement of commodities. In this respect the transportation companies are in much the same position as the shipper, as the latter is also compelled, with a fixed cost of producing an article, to accept a lower price for it in certain territories than in others. The applicant is no exception to the rule, its president stating (p. 4170) they are selling their product in Vancouver at a price as low or lower than in Montreal; further stating (p. 4171): 'If you accuse me of selling to the Vancouver man at less than f.o.b. Montreal, I am guilty.' He stated the same condition would prevail with regard to goods exported to other countries (p. 4172). The whole rate structure is honeycombed with rates

that are an exception to any principle of equality in earning for a similar transportation service. This condition has always existed, has been recognized and approved by all rate regulating tribunals, and is not contrary to law. Without such a condition the business of the country could not develop and flourish. These variations in rates are necessary to develop traffic, to enable its free movement and to meet market, water and rail competition. There is also the feature of the value of the service. The actual difference in the cost of the movement of a carload of silk and a carload of coal is relatively insignificant compared with the difference in the value of the two carloads and, under any theory of the same revenue for a similar transportation service, the rate on coal would be prohibitive whereas the silk would not contribute its fair share to the carrier's revenue."

Applying these principles to this case, there is no evidence that there is any market competition between dried beans and peas, or any of the other commodities listed as grain, nor was it contended by complainant that a dealer considering the purchase of beans might substitute peas simply because the latter have a lower inspection charge. It is not shown that complainant suffers any detriment whatever by reason of the lower charge on grain. It, in fact, has benefited by it, because it makes use of the stop-off arrangement on grain and obtains the lower charge provided therefor. The difference in charge does not, therefore, constitute a discrimination which is unjust.

Reference was made to value. Complainant stated the present value of dried beans was not any higher than that of dried peas; that, at times, the price of beans has been below that of peas; that, consequently, the stop-off charge and freight rates should not be higher on beans than peas. There was filed a pamphlet issued by the Ontario Department of Agriculture covering statistics of farm crops, which shows the average market price of beans and peas for the years 1882 to 1934. Naturally, the prices of both commodities fluctuated appreciably, but the average market price of beans, during all this period, except in two years, was considerably higher than the average market price of peas. The railway also pointed out that it should not be overlooked that, in comparing these values, peas are included in the grouping with an extensive list of grains, the value of the whole grouping being materially less than for an individual commodity such as beans.

I do not consider this question of value relevant because it is not indicated that the value of the commodity played any part in determining the stop-off charge. While an incidental reference was made thereto, the freight rates covering the line haul movement are not being here considered, or dealt with, nor were they a factor in fixing the stop-off charge. Any complaint concerning freight rates will have to be launched as a separate application and fully developed.

Upon what is before us, it is not shown that the stop-off charge in question is unreasonable *per se*, or unjustly discriminatory, consequently, the complaint must be dismissed.

OTTAWA, ONT., October 23, 1937.

The Assistant Chief Commissioner, the Deputy Chief Commissioner and Commissioner Stone concurred.

TRADUCTION

Plainte de la Globe Trading Corporation Ltd., de Montréal, P.Q., au sujet de la taxe établie par la compagnie des chemins de fer Nationaux du Canada pour permettre l'inspection à Montréal des expéditions de haricots secs en wagons à chargements complets.

Dossier n° 40449.

JUGEMENT

GUTHRIE, commissaire en chef:—

Cette plainte fut entendue à Montréal le 15 courant en présence des représentants de la plaignante et de la compagnie des chemins de fer Nationaux du Canada.

La plainte provient du fait qu'une taxe de \$5.00 par wagon fut établie par la compagnie des chemins de fer Nationaux du Canada pour permettre l'arrêt à Montréal pour inspection des wagons chargés de haricots secs, tandis que pour les wagons chargés de grain qui font arrêt pour les mêmes fins la taxe n'est que de \$3.00 par wagon.

L'arrangement relatif à l'arrêt des wagons chargés de haricots secs fut conclu le 24 juillet 1935, et la compagnie de chemin de fer dit qu'il fut mis en vigueur à la demande de la plaignante qui lui représenta qu'elle subissait beaucoup d'ennuis par le fait que des wagons de haricots à destination d'endroits situés à l'est de Montréal étaient refusés lorsque rendus à destination, ou que des livraisons n'étaient pas acceptées à cause du fait que les haricots ne répondaient pas au désir du destinataire ou à l'entente conclue, ce qui eut pour résultat que des échantillons durent être pris dans les wagons et envoyés à la plaignante pour inspection et ajustement avant que les clients n'acceptassent les livraisons. L'arrangement relatif à l'inspection des wagons est évidemment un privilège précieux qui évite à la plaignante des dépenses considérables selon ce qu'elle a elle-même représenté. Le chemin de fer dit en outre qu'il s'agit là d'un service dispendieux à procurer, vu qu'il lui faut manœuvrer les wagons en dehors de leur parcours régulier et les placer sur des voies industrielles à la Pointe St-Charles pour inspection; que les frais d'aiguillage les plus bas qu'il lui a été en mesure de déterminer pour placer un wagon au terminus de Montréal sont d'au moins \$8.00, tandis qu'en vertu du tarif il ne reçoit seulement que \$5.00 pour ce service. L'arrangement relatif à l'arrêt des wagons chargés de grain au coût de \$3.00 par wagon est en vigueur depuis au moins trente ans, et probablement depuis plus longtemps, et il n'y a rien qui indique la base sur laquelle était établie cette taxe s'il y en avait une. En vertu de cet arrangement, il se fait un trafic très considérable, et le chemin de fer n'a jamais modifié cette taxe. A l'époque où cette taxe fut établie, il n'y a pas de doute que les frais pour procurer ce service étaient beaucoup moindres qu'aujourd'hui.

Bien que cette plainte ait été portée contre la compagnie des chemins de fer Nationaux du Canada, on peut alléguer que la compagnie du Pacifique-Canadien a les mêmes arrangements en vigueur avec les mêmes taxes et qu'il n'y a pas eu de plainte portée contre elle.

Il y a quelque vingt-cinq ans, le chemin de fer Pacifique-Canadien proposa de mettre fin à cet arrangement d'arrêt des wagons chargés de grain, mais la Commission, tout en permettant la suppression de tel arrangement à un des termini de Montréal (Place Viger) ainsi qu'à la rue Simcoe et à l'Esplanade à Toronto, exigea qu'il restât en vigueur aux autres endroits où les facilités d'arrêt existaient. La question de la taxe établie n'en était pas alors une en litige, et la Commission ne l'a jamais mise à l'étude; c'était une question de continuation ou de discontinuation du privilège d'arrêt. Il existe un grand nombre d'arrangements relatifs à l'arrêt des wagons publiés par le chemin de fer concernant diverses

denrées autres que le grain, et tous comportent une taxe plus élevée que celle établie pour le grain. Par exemple, il y a une taxe d'arrêt de 1c. par 100 livres sur les produits du grain, le foin, les pommes de terre, les navets, le charbon et le coke. Il existe des arrangements d'arrêt, avec taxes qui varient, sur les expéditions de pommes vertes, de beurre, de fromage, d'œufs, de bois de charpente, etc.

Le seul fait qu'il existe une taxe de \$3.00 pour le grain n'est pas en soi une raison pour justifier la Commission de fixer la même taxe pour les haricots secs et autres denrées. La question est de savoir si la taxe de \$5.00 pour les haricots est déraisonnable et s'il existe une disparité injuste.

D'après le dossier, je ne peux pas trouver que la taxe de \$5.00 soit déraisonnable. D'après la déclaration du chemin de fer, elle n'est pas égale au coût du service fourni. Du point de vue de la plaignante, un arrangement d'arrêt des wagons établi dans les conditions et pour les raisons déjà mentionnées ci-dessus, semblerait être profitable, et la différence entre la taxe chargée et celle qu'on demande est de \$2.00 par wagon, ou un tiers de cent par boisseau sur un produit évalué à \$2.25 par boisseau à Montréal.

Pour ce qui est de la disparité, il est rapporté au Volume 21 des Jugements, Ordonnances et Décisions de la Commission, à la page 2, ce qui suit:—

"A difference in rates may be discrimination, but not unjust discrimination of the character forbidden by the Railway Act. The interpretation of the Act in this respect and the position taken by the Board on the broad issue of unjust discrimination has been set out in a great many decisions of the Board and may be summed up by the following citations from two or three cases, which position has been uniformly followed in all other cases coming before the Board.

The late Chief Commissioner, Hon. Mr. Mabee, in *Toronto and Brampton vs. Grand Trunk Railway and Canadian Pacific Railway Companies*, 11 C.R.C., 370, stated:—

'The Railway Act, as I understand it, authorizes and justifies discrimination. It is only an undue, unfair, or unjust discrimination that the law is aimed against.'

In 18 C.R.C., 424, *Cuneo Fruit and Importing Company vs. Grand Trunk Railway*, it is stated:—

'Discrimination may or may not fall within the provisions of the Act. The Act, as it has always been interpreted by the Board, only forbids discrimination when it is undue or unreasonable. In *re Western Tolls*, 17 C.R.C., 123, pages 148 to 156.'

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'In Volume 12, Board's Judgments and Orders, p. 268, *Complaint of the Spanish River Pulp and Paper Mills, Limited*, at pp. 278 and 279, it is stated:—

'In dealing with the question of discrimination, the matter of detriment, if any, to which the applicant is subjected by the alleged unjust discrimination or undue preference must be considered. Difference in rates is discrimination; but the prohibitions of the Railway Act in regard to discrimination are prohibitions of unjust discrimination or undue preference, and the question is whether the discrimination amounts to an unjust discrimination or undue preference.' In *re Western Tolls*, 17 Can. Ry. Cas., 123, at pp. 148 to 156.

.....

'One criterion of unjust discrimination is whether the district alleged to be discriminated in favour of has profited at the expense of the locality against which it is alleged the discrimination has taken place.

Wegenast v. G.T.R. Co., 8 Can. Ry. Cas., 42, at p. 45.

Toronto and Brampton v. G.T.R. and C.P.R. Cos., 11 Can. Ry. Cas., 370, at p. 375.

Massiah v. C.P.R. Co., Board's Orders and Judgments, Vol. 4, p. 106.'

'In Ontario Paper Co. v. G.T.R., Co., 24 Can. Ry. Cas., 177, no evidence was submitted that any rate advantage possessed by any competitor had rendered it more difficult for the applicant company to do business, and the allegation of unjust discrimination was held to be unfounded.'

'Evidence is required as to how rates complained of react to the detriment of the applicant.

Zwicker and Co. v. Can. Nat. Rys., Board's Orders and Judgments, Vol. 12, No. 16, at pp. 152, 153.

The ultimate test of discrimination is to be found not in difference of rates but in the question whether as a result of this difference an injury is worked to an individual or locality. One test of this is whether the locality alleged to be favoured actually gets into a common market on a lower rate. The rate paid rather than the distance travelled is important.

In *re* Telegraph Tolls, 20 Can. Ry. Cas., 1, p. 23.' "

Dans des causes qui sont venues devant la Commission, on a soulevé la question de savoir s'il existait une disparité injuste du fait que les voituriers, pour service semblable de transport, obtenaient un plus fort revenu dans certains cas que dans d'autres, et au Volume 21 des Jugements, Ordonnances et Décisions de la Commission, à la page 8, il est rapporté ce qui suit:—

"We do not consider it is necessary here to make any extended comment on the point raised by applicant, not only with respect to the rates here referred to, but also with regard to import rates and international rates which are later dealt with herein; that there is unjust discrimination if it is found, as it is, that the carriers for similar transportation service, obtain greater revenue in some cases than in others. This is a subject concerning which a great deal could be said. It is a general condition throughout the rate structure in any country in the world and it is just as much in the interest of the shipping public and necessary to the development of business as it is to the interest of the carriers to enable them to develop and encourage the free movement of commodities. In this respect the transportation companies are in much the same position as the shipper, as the latter is also compelled, with a fixed cost of producing an article, to accept a lower price for it in certain territories than in others. The applicant is no exception to the rule, its president stating (p. 4170) they are selling their product in Vancouver at a price as low or lower than in Montreal; further stating (p. 4171): 'If you accuse me of selling to the Vancouver man at less than f.o.b. Montreal, I am guilty.' He stated the same condition should prevail with regard to goods exported to other countries (p. 4172). The whole rate structure is honey-combed with rates that are an exception to any principle of equality in earning for a similar transportation service. This condition has always existed, has been recognized and approved by all rate regulating tribunals, and is not contrary to law. Without such a condition the business of the country could not develop and flourish. These variations in rates are necessary to develop traffic, to enable its free movement and to meet market, water and rail competition. There is also the feature of the value of the service. The actual difference in the cost of the movement of a carload of silk and a carload of coal is relatively insignificant compared with the difference in the value of the two carloads and, under any theory of the same revenue for a similar transportation service, the rate on coal would be

prohibitive whereas the silk would not contribute its fair share to the carrier's revenue."

En appliquant ces principes au cas présent, il n'y a pas de preuve qu'il existe une concurrence sur le marché entre les haricots secs et les pois, ou toutes autres denrées classifiées comme grains, et la plaignante n'a pas non plus prétendu qu'un marchand ayant en vue l'achat de haricots pouvait y substituer l'achat de pois simplement parce que ces derniers sont sujets à une taxe d'inspection moins élevée. Il n'est pas démontré que la plaignante subit un préjudice quelconque en raison de la taxe moins élevée pour le grain. Elle en a de fait bénéficié parce qu'elle a recours à l'arrangement d'arrêt sur les expéditions de grain et profite de la taxe moins élevée qui est établie. La différence pour ce qui est de la taxe ne constitue pas par conséquent une disparité injuste.

On a fait allusion aux prix. La plaignante dit que la valeur actuelle des haricots secs n'était pas plus élevée que celle des pois secs; qu'à certaines époques, le prix des haricots a été plus bas que celui des pois; que par conséquent, la taxe d'arrêt et les taux de transport des haricots ne devraient pas être plus élevés que ceux qui s'appliquent aux pois. On a produit une brochure publiée par le ministère de l'Agriculture d'Ontario traitant des statistiques concernant les moissons, laquelle indique la moyenne du prix du marché des haricots et des pois pour les années de 1882 à 1934. Naturellement, les prix de ces deux denrées ont varié d'une façon appréciable, mais la moyenne du prix du marché des haricots durant toute cette période, sauf pour deux années, fut considérablement plus élevée que la moyenne du prix du marché des pois. Le chemin de fer a aussi signalé qu'on ne devrait pas oublier en faisant la comparaison de ces valeurs, que les pois font partie du groupement avec une longue liste de grains; la valeur de tout le groupement étant substantiellement moindre que dans le cas d'une denrée particulière telle que les haricots.

Je ne considère pas que cette question de valeur soit pertinente parce qu'il n'est pas démontré que la valeur de la denrée a joué un rôle quelconque dans la détermination de la taxe d'arrêt. Bien qu'on y ait fait allusion incidemment, on ne considère pas et on ne tient pas compte des taux de transport relatifs au parcours, non plus que ces taux n'ont constitué un facteur dans l'établissement de la taxe d'arrêt. Toute plainte concernant les taux de transport devra être produite comme une requête à part et avec détails complets.

Ni l'enquête ni l'argument n'ont démontré que la taxe d'arrêt dont il s'agit est déraisonnable ou injuste; en conséquence, la plainte doit être renvoyée.

Ottawa, Ont.,
le 23 octobre 1937.

Le Commissaire-en-chef adjoint le Commissaire-en-chef suppléant et le Commissaire Stone se sont ralliés au jugement ci-dessus.

ORDER No. 55201

In the matter of the complaint of the Globe Trading Corporation, Limited, of Montreal, Quebec, against charge made by the Canadian National Railways for permitting carload shipments of dried beans to be stopped off at Montreal for inspection.

File No. 40449

FRIDAY, the 5th day of November A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*
F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*
G. A. STONE, *Commissioner.*

Upon hearing the complaint at the sittings of the Board held at Montreal, October 15, 1937, in the presence of a representative of the Globe Trading Cor-

poration, Limited, and counsel for the Canadian National Railways, and what was alleged,—

It is ordered: That the complaint be, and it is hereby, dismissed.

H. GUTHRIE,
Chief Commissioner.

Complaint of Mr. George C. Goodfellow, Montreal, Que., against the non-application of export freight rates on lumber for furtherance to points in Newfoundland.

File No. 33526.1

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This complaint was heard at Montreal on the 15th instant in the presence of complainant and representatives of the Canadian Pacific and Canadian National Railways. It concerns the rates on lumber, in carloads, from Canadian points to Montreal, Saint John and Halifax, when destined beyond those ports to Newfoundland.

Complainant alleges that Newfoundland is the only country in the world to which the Canadian railways will not give an export rate on lumber; that the United States railways apply their export rates on traffic destined to Newfoundland and, as a result of this difference in rate treatment, he is losing business to his United States competitors. The facts are not as alleged by the complainant in so far as the rates are concerned.

The general situation is that where export rates lower than the domestic rates are published to Atlantic ports, either from Canadian or United States points, such export rates are applicable only on traffic consigned through to British and foreign countries, Cuba, the insular possessions of the United States and the Panama Canal zone, and are not applicable on traffic to points in Canada, the United States, Newfoundland or the islands of St. Pierre and Miquelon. Of course, where specific export rates are not published, the domestic rates apply, regardless of the final destination of the traffic, so that in such cases the same rate would apply when the traffic is destined to Newfoundland as when destined to foreign countries, but that is not the issue here; it is a complaint because the export rates do not apply on traffic to Newfoundland.

On traffic from Canadian points of origin to Newfoundland, the general basis of rates is that to Montreal and Saint John the domestic rates plus terminal charges apply, subject to a maximum of the New York domestic rates (including lighterage); and, to Halifax, the domestic rates plus terminal charges, subject to a maximum of the New York domestic rates (including lighterage) plus 1 cent per 100 pounds. .

On traffic from United States points of origin to Newfoundland, the general basis of rates is that to Montreal, Saint John, New York, Boston and Portland, the rates that govern on domestic shipments to New York apply; and, to Halifax, the New York domestic rate plus 1 cent per 100 pounds.

Complainant describes the rates from United States points to Boston and Portland as export rates, but this is a misnomer, as it is obvious that it is a port equalization of the New York domestic rates as maximum to Boston and Portland.

The railways state that Newfoundland has always been treated, for rate-making purposes, as an adjacent country, the same as the United States, and no reason exists for treating it otherwise. They point out that the Board has

on various occasions dealt with the matter of export rates on lumber and, while its orders made no definition of the term "export," the tariffs which the orders dealt with specifically showed such export rates as applying only on traffic to British and foreign countries and not applying to Newfoundland, the islands of St. Pierre and Miquelon or the United States and that, at no time during the past twenty-five years at least, has the Board, or anyone else, suggested that the application of the export rates was improperly published. They further point out that, in dealing with the rates on grain and grain products between eastern Canadian points in 1917 (Volume 7, Board's Judgments, Orders and Rulings, page 184, at page 196), the Board treated the rates on grain products to Montreal for furtherance to Newfoundland as domestic rates, as distinguished from export rates.

The Board has repeatedly held that export rates may be considered as coming within the category of competitive rates. It follows that there is a variation in such rates as between different commodities and, on the same commodities, between different points of origin and destination, due to the fact that different circumstances and conditions prevail and the particular facts, circumstances and conditions existing in each case must be considered, such as competitive marketing conditions, port competition and other relevant factors.

With respect to the export rates on lumber, the railways state that some three or four years ago the situation in the Canadian lumber industry was very bad and the exporters placed before them particulars concerning the bitter competition they were encountering in Great Britain with lumber from Russia and the Scandinavian countries and, after conferences with the Canadian Lumbermen's Association, reduced export rates were established by the railways for the purpose of assisting the Canadian lumber exporters in meeting this competition in Great Britain. Under the general application of the tariff, the rates would also apply to Bermuda and the West Indies, as pointed out by complainant, but it is stated that 99 per cent of the lumber exported through Montreal goes to the United Kingdom.

The competitive situation with regard to lumber for Newfoundland is entirely dissimilar. Exhibit No. 3, compiled from Newfoundland customs reports, consisted of a statement showing importations of lumber and timber into Newfoundland as follows:—

<i>Fiscal year ended June 30, 1936—</i>		
	Feet. Board Measure	Per Cent
Lumber, from Canada.....	1,768,391	81
Lumber, from United States.....	413,623	19
Total	2,182,014	100
<hr/>		
	Cubic Feet	Per Cent
Timber, from Canada.....	49,457	83
Timber, from United States.....	9,952	17
Total.	59,409	100
<hr/>		
<i>Fiscal year ended June 30, 1937—</i>		
	Feet. Board Measure	Per Cent
Lumber, under 5", from Canada.....	1,127,698	80
Lumber, under 5", from United States.....	288,380	20
Total	1,416,078	100
<hr/>		
	Tons	Per Cent
Timber, 5" and over, from Canada.....	12,306	83
Timber, 5" and over, from United States.....	2,488	17
Total	14,794	100

The foregoing covers the entire movement and does not distinguish between that shipped direct by vessel through the Panama Canal and the amount moved to Montreal or Atlantic ports by rail. Complainant states that most of the timber into Newfoundland is moved by water through the Panama Canal. It will be noted that all the importations into Newfoundland are from Canada and the United States—none from any other country—and that, of the lumber, 81 per cent in one year and 80 per cent in the other was from Canada.

There was one exception pointed out to the general basis covering rates on traffic to Newfoundland, as set out earlier herein, namely, that the export rates on grain and grain products were, early in 1933, made applicable on such traffic for Newfoundland. Prior to 1933, rates on grain and grain products, when for Newfoundland, were higher than the export rates. The railways furnished an explanation of the circumstances surrounding these rates, showing the existence of an entirely dissimilar competitive condition to that governing the movement of lumber into Newfoundland. Mr. Kirkpatrick stated (page 3011):—

“The wheat situation throughout the world has played havoc with our rate situation in Canada and also with the sale of our wheat, in that the British millers could get wheat from Russia, Argentine and Australia cheaper than they could buy our Canadian Wheat, with the consequence that they could manufacture flour in Britain cheaper than we could manufacture flour in Canada and ship to Great Britain. In other words, that in recent years particularly, the export miller in Canada has had a harder time marketing his flour in the United Kingdom than he had a few years ago. By reason of that situation the millers approached the railways and explained to them that flour was coming back from Great Britain to Newfoundland and asked if the Canadian railways would not help them out as far as they could in holding that market for the Canadian millers. The Canadian railways looked into it, checked up the situation and found that the millers were correct in their statement and they gave the millers an export rate on flour to the seaboard when destined to Newfoundland. I think that was effective January 1, 1933. That was a change. But I would like to point that out to you to show that where any people in any community in Canada find they have competition we are prepared to meet them and give consideration to any submissions they may make.”

What is above set out shows clearly quite different competitive conditions governing the movement of lumber to Newfoundland as compared with the United Kingdom, consequently justifying some difference in rate treatment. We have no comparative figures of the cost of water transportation to Newfoundland and the United Kingdom.

With respect to the rates on lumber going to Newfoundland, there is nothing before us on this record indicating a difference in rate treatment through New York, Boston, or Portland, as compared with Montreal and Halifax, which is to the advantage of the United States shipper and the disadvantage of the Canadian shipper. Of the total movement of lumber to Newfoundland, Canada supplies 80 per cent and the United States 20 per cent. Complainant's allegations were very vague and meagre. He stated that the competition of lumber from United States points is affecting his business, but furnished no evidence in support of this statement and, particularly, to show that a difference in rate treatment was the cause of this condition, if it does exist. We were supplied with no information showing from what United States points lumber moves to Newfoundland, or the rates paid for the rail portion of the transportation. We were given no information showing the cost of water transportation from the various Atlantic ports to Newfoundland. It may be more from some of the ports than others, but the record is devoid of any data on this point.

Complainant stated the Canadian points of origin were in the Ottawa Valley and named Calumet as a shipping point. On lumber for Newfoundland, the rate from Calumet to Montreal is 10½ cents, to Boston or New York 31½ cents and to Halifax 32½ cents.

Complainant stated: "We have lost several cars of doors from the Tacoma district, because it is cheaper to go through Boston." The carload rate on doors in the white, unglazed, from Tacoma to Boston is \$1.10½ and, to Montreal, \$1.03½. If complainant purchases doors in Tacoma for shipment to Newfoundland and pays the freight charges thereon, he secures exactly the same rate as any other shipper of doors from Tacoma to Newfoundland.

For the reasons set out herein, I consider that this complaint must be dismissed.

OTTAWA, ONT., October 25, 1937.

The Assistant Chief Commissioner, the Deputy Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55145

In the matter of the complaint of George C. Goodfellow, of Montreal, Quebec, against the non-application of export freight rates on lumber for furtherance to points in Newfoundland.

File No. 33526.1

MONDAY, the 8th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held at Montreal, October 15, 1937, in the presence of counsel for the Canadian Pacific Railway Company and the Canadian National Railways, the complainant appearing in person, and what was alleged,—

It is ordered: That the complaint be, and it is hereby, dismissed.

H. GUTHRIE,
Chief Commissioner.

Complaint of Mr. C. Mainville, Montreal, Que., against the Bell Telephone Company assessing charges against him on the basis of the business rate for telephone service in his private residence.

(File No. 3574.386)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

On July 5 last the Board considered this case upon the written submissions made by the complainant and by the Bell Telephone Company, and decided that the complaint should be dismissed. An order was accordingly made dated July 7, 1937, No. 54523, dismissing the complaint. Subsequently, the complainant requested a hearing of his complaint by the Board, and the same was heard at the city of Montreal on October 15, 1937, in the presence of the complainant, who appeared in person, and of counsel for the Bell Telephone Company.

The complainant resides at 421 Mount Royal West, in the city of Montreal, in which was installed originally an ordinary household telephone at domestic rates, but which was changed in the year 1935 by the Bell Telephone Company

to a commercial telephone and the commercial rate has been applied to the telephone since the change. The commercial rate for a wall telephone in Montreal is \$7 per month, and for an ordinary household telephone the rate is \$3.25 per month.

It is alleged by the complainant that the telephone at his residence is used almost exclusively for household purposes and is rarely used for business communications of any kind. The complainant is a salesman of electrical goods and carries on business under the name of UNIVERSAL LIGHTING CORPORATION, of which corporation he claims to be the sole proprietor. Complainant states that he does very little business within the municipal boundaries of the city of Montreal. As stated by himself at the hearing, complainant's method of doing business is briefly as follows: He purchases stock from time to time as he requires it, which stock is delivered to him at the garage where he keeps his car at 9 Marion street East. He then takes the stock from the garage as he requires it, places it in his car, and sells it as a regular peddler on the road. He states that this has been his practice for the last two years.

In his application to the Board, dated April 5, 1937, complainant states that he was always charged residential telephone rates "until two years ago," when the Bell Telephone Company placed him on the business rate because he was receiving one or two calls per day for free service from persons to whom he had supplied electric light bulbs, etc. He also stated in his application that during the past year he had not received more than five or six business calls per month upon his house telephone. Complainant states in his evidence that he maintains no office whatever either in Montreal or at any other point. In his evidence he describes himself as a peddler, and states that he does not require to maintain any office for the transaction of the business which he carries on. He goes out daily around the country in his motor car and solicits orders for the sale of electric light bulbs and shades under the name of Universal Lighting Corporation. He stated that he does not maintain any system of book-keeping apart from some sales records which he always carries in the pocket of his car, unless on some occasions he may take them to his house in the pocket of his coat.

Complainant is registered in the city of Montreal under the name of Universal Lighting Corporation, and at one time he supplied his customers with business cards, one of which was filed as Exhibit No. 3 upon the hearing. Upon this card there appears a printed telephone number, Dollard 7085, but this printed number has been struck out and a new number, 5081, has been written in in pencil. The card states that the Universal Lighting Corporation is represented by Mr. C. Mainville, 421 Mount Royal West, Montreal. Complainant admitted that while he made use of these cards one or two years ago, he used no business card at all at the present time. He also stated that he supplied printed postal cards to his customers, which the customers used in mailing their orders to him at his address in Montreal.

Complainant has also obtained a licence to do business in the City of Montreal under the provisions of the Sales Tax By-law passed by the council of the city of Montreal. Under the provisions of this by-law a tax is imposed on all sales of goods made by persons in the city of Montreal as defined in article 1, paragraph (a) of said by-law. Complainant made application under the provisions of the said by-law for Retail Sales Tax Registration Certificate and a copy of this application was filed as Exhibit No. 5 upon the hearing. In this application the complainant described himself as an electrical contractor and gave as his business address, 421 Mount Royal West, and signed his name as proprietor of the business carried on.

The above by-law of the city of Montreal makes special provision for the issue of licences to peddlers (see Form 3 of by-law), but it is to be noted that complainant's application was not for a peddler's licence but for the ordinary

Retail Tax Registration Certificate (see Form 2 of by-law), in which the applicant is called upon to state his business address and which he stated to be 421 Mount Royal West.

I am satisfied upon the evidence that the complainant is the sole proprietor of the Universal Lighting Corporation and acting under the name of the said corporation is a salesman of various electrical products, as stated upon the business card, Exhibit No. 3; that he carries on business in the city of Montreal as well as in the district surrounding that city, and it is probably correct to say that by far the greater portion of his business is outside the limits of the city of Montreal. I am also satisfied that the telephone in his residence is used both for business and domestic purposes, and that he should properly pay the business or commercial rate for such service.

Counsel for the Bell Telephone Company referred to some previous judgments of the Board in cases involving questions similar to those arising upon this complaint. I do not deem it necessary to discuss these decisions at length. In my opinion the case of Bayly vs. Bell Telephone Company, 11 C.R.C. 190, and Newman vs. Bell Telephone Company, 17 C.R.C. 271, are very much in point in respect of the present complaint.

I think this complaint should be dismissed and Order No. 54523, above referred to, confirmed.

October 26, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

File No. 3574. 386.

GARCEAU, Deputy Chief Commissioner:—

This is an application for an order directing the Bell Telephone Company of Canada to charge the complainant domestic rates instead of commercial rates.

Neither the complainant's name nor the name of his firm are listed in the telephone directory. This creates a presumption *juris tantum* that the telephone was not intended to be used for commercial purposes.

In the cases quoted by Counsel for the Bell Telephone Company, the parties concerned were listed in the directory. The public at large was invited, through this medium, to do business with them. It was held immaterial whether the telephone was used or not, and rightly so.

However, the complainant, in his declarations, and more particularly in the declaration made at the City Hall, says positively that his place of business, under the name of "Universal Lighting Corporation" is located at 421 Mount Royal West, Montreal. In doing so he annuls the presumption above referred to and proves the submissions of the Bell Telephone Company.

Whether or not he knew of the implication to be inferred from his declaration at the City Hall, the fact remains and he must bear the consequences of his action. However, I believe that if ever he is officially registered at the City Hall as a pedlar, with no fixed business address, he would be entitled to the ordinary household rates.

I would dismiss the application.

OTTAWA, November 4, 1937.

Requête de M. C. Mainville, de Montréal, P.Q., contre la compagnie de téléphone Bell parce que celle-ci lui impose des taux sur la base du tarif commercial, pour service téléphonique à sa résidence privée.

Dossier No. 3574.386.

JUGEMENT

GUTHRIE, Commissaire en Chef:

Le 5 juillet dernier, la Commission prit en considération la présente cause sur les représentations par écrit faites par le plaignant et par la compagnie de téléphone Bell et décida que la plainte devait être renvoyée. Une ordonnance, portant le n° 54523, fut rendue en conséquence le 7 juillet 1937. Dans la suite, le plaignant demanda à la Commission qu'elle lui accordât une audition sur sa plainte; celle-ci fut entendue dans la cité de Montréal, le 15 octobre 1937, en présence du plaignant et de l'avocat de la compagnie de téléphone Bell.

Le plaignant a sa résidence au n° 421 ouest, rue Mont-Royal, dans la cité de Montréal, où était installé en premier lieu un téléphone à domicile ordinaire au taux domestique, lequel, toutefois, fut changé, en 1935, par la compagnie de téléphone Bell, et le taux commercial fut alors chargé. Le tarif commercial pour un appareil téléphonique sur le mur est de \$7.00 par mois à Montréal, et pour un téléphone à domicile ordinaire de \$3.25 par mois.

Le plaignant allègue que le téléphone à sa résidence est utilisé presque exclusivement pour des fins domestiques et l'est rarement pour des appels d'affaires d'aucune sorte. Le plaignant est un vendeur de produits électriques et fait affaires sous le nom de *Universal Lighting Corporation* dont il prétend être le seul propriétaire. Le plaignant déclare qu'il fait très peu d'affaires en dedans des limites de la cité de Montréal. Tel qu'expliqué par lui-même lors de l'audition, le plaignant dans le cours de son commerce procède tel que brièvement mentionné ci-après: il achète de temps en temps des stocks de marchandises suivant besoin qui lui sont délivrées au garage où il met sa voiture, n° 9 est, rue Marie-Anne. Il prend alors ses marchandises dans le garage à mesure qu'il en a besoin, les dépose dans sa voiture et les vend sur la route comme un colporteur ordinaire. Il déclare qu'il emploie cette façon de procéder depuis deux ans.

Dans sa requête à la Commission, en date du 5 avril 1937, le plaignant déclare qu'on lui a toujours chargé les tarifs de téléphone à domicile "jusqu'à il y a deux ans", alors que la compagnie de téléphone Bell lui chargea le taux commercial parce qu'il recevait un ou deux appels par jour pour service gratuit de la part de personnes à qui il avait fourni des ampoules de lumière électrique, etc. Il déclare aussi dans sa requête que depuis un an il n'a pas reçu plus de cinq ou six appels d'affaires par mois chez lui par téléphone. Le plaignant déclare dans son témoignage qu'il ne tient pas de bureau soit à Montréal ou ailleurs. Dans son témoignage, il se représente comme un colporteur et déclare qu'il n'a pas besoin de tenir bureau pour la transaction des affaires qu'il fait. Il part tous les jours dans son automobile pour aller dans la campagne et sollicite des commandes pour la vente d'ampoules de lumière électrique et d'abat-jour sous le nom de la *Universal Lighting Corporation*. Il déclare qu'il n'a aucun système de tenue de livres à part quelques documents relatifs aux ventes qu'il apporte toujours dans la poche de côté de sa voiture, à moins que dans certaines occasions, il ne les apporte chez lui dans la poche de son veston.

Le plaignant est enregistré dans la cité de Montréal sous le nom de *Universal Lighting Corporation*, et autrefois il fournissait à ses clients des cartes d'affaires dont l'une a été produite lors de l'audition comme exhibit n° 3. Sur cette carte paraît un numéro de téléphone imprimé, Dollard 7085, mais ce numéro imprimé a été biffé et un nouveau numéro, 5081 a été écrit au crayon. La carte déclare que la *Universal Lighting Corporation* est représentée par M. C. Mainville, 421 ouest, rue Mont-Royal, Montréal. Le plaignant a admis que

bien qu'il ait fait usage de ces cartes il y a un an ou deux, il n'employait plus du tout de cartes d'affaires actuellement. Il a aussi déclaré qu'il fournissait à ses clients des cartes postales imprimées que ceux-ci employaient en lui envoyant leurs commandes par la poste à son adresse, à Montréal.

Le plaignant a aussi obtenu une licence pour faire affaires dans la cité de Montréal conformément aux dispositions du règlement de la taxe de ventes adopté par le conseil de la cité de Montréal. D'après les dispositions de ce règlement, une taxe est imposée sur toutes les ventes de marchandises faites dans la cité de Montréal par des personnes telles que désignées au premier article, paragraphe (a), du dit règlement. Le plaignant fit une demande en vertu des dispositions du dit règlement pour obtenir un certificat d'enregistrement relativement à la taxe de ventes en détail, et une copie de cette demande a été produite comme exhibit n° 5 lors de l'audition. Dans cette demande, le plaignant déclare qu'il est un entrepreneur électricien, et donne comme son adresse d'affaires le n° 421 ouest, rue Mont-Royal, et signe son nom comme propriétaire de la raison sociale.

Le règlement ci-dessus mentionné de la cité de Montréal a une disposition spéciale pour l'émission de licences aux colporteurs (voir la formule 3 du règlement), mais il est à noter que la demande du plaignant n'était pas pour une licence de colporteur mais pour un certificat ordinaire d'enregistrement relativement à la taxe de ventes (voir formule 2 du règlement), pour l'obtention duquel le requérant est obligé de déclarer son adresse d'affaires, laquelle il a déclaré être au n° 421 ouest, rue Mont-Royal. Je suis persuadé par la preuve qui a été faite que le plaignant est le seul propriétaire de la *Universal Lighting Corporation*, et qu'agissant sous le nom de la dite corporation, il est un vendeur de divers produits électriques, tel que mentionné sur la carte d'affaires, exhibit n° 3; qu'il fait affaires dans la cité de Montréal aussi bien que dans le district avoisinant cette ville, et qu'il est probablement juste de dire que la plus grande partie de son commerce se fait en dehors des limites de la cité de Montréal. Je suis aussi persuadé que le téléphone à sa résidence est utilisé pour des fins commerciales et domestiques et qu'il serait juste qu'il paye le taux d'affaires pour tel service.

L'avocat de la compagnie de téléphone Bell a référé à quelques jugements antérieurs de la Commission dans des causes impliquant des questions semblables à celles auxquelles donne lieu la présente plainte. Je ne considère pas qu'il soit nécessaire de discuter ces décisions au long. A mon avis, la cause de Bayly v. la compagnie de téléphone Bell, 11 C.R.C. 190, et la cause de Newman v. la compagnie de téléphone Bell, 17 C.R.C. 271, sont très au point par rapport à la présente plainte.

Je considère que la présente plainte devrait être renvoyée et que l'ordonnance n° 54523, à laquelle il est référé ci-dessus devrait être confirmée.

Le 26 octobre 1937.

Le Commissaire-en-chef adjoint et le Commissaire Stone se sont ralliés au jugement ci dessus.

(Dossier No. 3574.386)

GARCEAU, Commissaire en chef suppléant:

Il s'agit ici d'une requête demandant qu'il soit rendu une ordonnance enjoignant à la compagnie de téléphone Bell du Canada d'imposer au plaignant des taux domestiques au lieu des taux d'affaires.

Ni le nom du plaignant ni celui de sa raison sociale ne sont inscrits dans l'annuaire du téléphone. Ceci crée une présomption *juris tantum* que le téléphone ne devait pas servir à des fins commerciales.

Dans les causes citées par l'avocat de la compagnie de téléphone Bell, les parties en cause étaient inscrites dans l'annuaire. Le public en général était invité par ce moyen à faire affaires avec elles. Il fut jugé et justement, qu'il importait peu qu'on fit usage ou non du téléphone.

Le plaignant, toutefois, dans sa déclaration faite à l'hôtel-de-ville dit d'une manière positive que sa place d'affaires sous le nom de *Universal Lighting Corporation* est située à 421 ouest, rue Mont-Royal, Montréal. Par cette déclaration, il annule la présomption mentionnée ci-dessus et prouve les allégations de la compagnie de téléphone Bell.

Qu'il ait connu ou non l'effet de telle déclaration, le fait demeure et il doit supporter les conséquences de son acte.

Je crois, toutefois, que si jamais il est officiellement enregistré à l'hôtel-de-ville comme colporteur sans adresse d'affaires, il aura droit au taux domiciliaire ordinaire.

Je renverrais la requête.
Ottawa, le 4 novembre 1937.

ORDER No. 55182

In the matter of the complaint of C. Mainville, of Montreal, Quebec, that the Bell Telephone Company of Canada has assessed charges against him on the basis of the business rate for telephone service in his private residence.

File No. 3574.386

FRIDAY, the 5th day of November A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held at Montreal, October 15, 1937, in the presence of counsel for the Bell Telephone Company of Canada, the complainant appearing in person, and what was alleged,—

It is ordered: That the complaint be, and it is hereby, dismissed.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55116

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 2nd day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 47 to Tariff C.R.C. No. E-1911

"	14	"	"	E-2448
"	12	"	"	E-2526

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55130

In the matter of the application of the Pere Marquette Railway Company, hereinafter called the "Applicant Company," for permission to cancel, on less than statutory notice, rates published on petroleum and petroleum products from Sarnia, Ontario, to Port Colborne, Hamilton, and Toronto, Ontario.
File No. 27612.165

FRIDAY, the 5th day of November A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

Whereas the applicant company's Tariff C.R.C. No. 2949 publishes carload rates on petroleum and petroleum products from Port Stanley, Sandwich, Sarnia, and Walkerville, Ontario, to stations in Ontario;

And whereas, in Supplement No. 8 to the said tariff, a rate was published from Sarnia to Port Colborne, and in Supplement No. 9 rates were published from Sarnia to Hamilton and Toronto, Ontario, as applying on petroleum and petroleum products, without proper symbols to show that the said rates were confined to fuel oil only, and the applicant company desires to correct the errors on less than statutory notice—

It is therefore ordered: That the applicant company be, and it is hereby, granted leave to file, on one day's notice, a supplement to its Tariff C.R.C. No. 2949 to correct the said errors.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55140

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 5th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 1 to Tariff C.R.C. No. 1048, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the said company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 1 to Tariff C.R.C. No. 1048, approved herein, are also shown below, namely:—

From	Cents per 100 pounds for all groups			
	Via Halifax, N.S.		Via Saint John and West Saint John, N.B.	
Auburn, N.S.—	B	C	B	C
Tariff	20	18	7.7	6.6
Normal	24	22	8.8	7.9

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55141

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.17

FRIDAY, the 5th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 45, filed by the Cumberland Railway and Coal Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 45, approved herein, are as follows:—

To	Cents per 100 pounds
Springhill, N.S.	6½
Parrsboro, N.S.	12½

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55151

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 8th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

The Board Orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 40 to Tariff C.R.C. No.	E-1238
“ 29 “ “	E-1239
“ 65 “ “	E-1244
“ 12 “ “	E-1248
“ 23 “ “	E-1256
“ 37 “ “	E-1906
“ 15 “ “	E-2448
“ 4 “ “	E-2629

Tariff C.R.C. No. E-2693.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55157

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

TUESDAY, the 9th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the toll published in item No. 181 of Supplement No. 4 to Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Company under

section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 181 of Supplement No. 4 to Tariff C.R.C. No. 1040, approved herein, is 4 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55159

In the matter of the application of the Niagara, St. Catharines & Toronto Railway Company, hereinafter called the "Applicant Company," under section 334 of the Railway Act, for approval of its Standard Passenger Tariff C.R.C. No. 346, on file with the Board under file No. 34322.

WEDNESDAY, the 10th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

Upon it appearing that the present Standard Passenger Tariff of the applicant company C.R.C. No. 325 expires on November 30, 1937, and that the Applicant Company desires to extend the fares for a further period of one year,—

It is ordered: That the applicant company's said Standard Passenger Tariff C.R.C. No. 346, effective December 1, 1937, be, and it is hereby, approved; the said tariff, with reference to this order, to be published in at least two consecutive weekly issues of the *Canada Gazette*.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55167

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

FRIDAY, the 12th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1062, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1062, approved herein, are as prescribed in the Order of the Board No. 55038, dated October 16, 1937.

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, SEPTEMBER, 1937

Railway accidents144, with 15 killed and 153 injured
Railway accidents at highway crossings..... 25, with 7 killed and 34 injured

	Killed	Injured
Passengers .....	..	32
Employees	6	98
Others	16	57
	<u>22</u>	<u>187</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS PRINCE EDWARD ISLAND

Accidents	K.	I.	
1	—	1	Automobile—Stopped auto on crossing and went to sleep; apparently under influence of liquor. Licence P.E.I. 6869.
NOVA SCOTIA			
1	—	1	Automobile—Auto attempted to beat train over crossing and was struck. Licence N.S. 71487.
NEW BRUNSWICK			
1	—	1	Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence N.B. C-3260.
QUEBEC			
1	—	4	Automobile—Auto driver and rail motor operator failed to stop for crossing. Licence Que. 85337.
1	—	1	Automobile—Auto ran into side of train; failed to stop for crossing. Licence Ill. 79818.
1	—	2	Automobile—Auto ran into side of train; failed to stop for crossing. Licence Que. T-1862.
1	—	1	Automobile—Auto driver and track motor sectionman failed to stop for crossing. Licence Que. 2-868.
1	1	4	Auto Truck—Truck driver failed to stop for crossing. Que. L-5420.
1	2	—	Auto Truck—Truck driver failed to stop for crossing, attempted to beat train. Licence Que. L-4212.

ONTARIO

1	—	4	Automobile—Auto ran into side of train. Licence Ont. 98-E-77.
1	—	1	Automobile—Track motor car foreman failed to assure himself highway was clear; collided with auto. Licence Ont. 581-P-2.
1	2	1	Automobile—Auto driver attempted to beat train over crossing. Licence Ont. 6-E-516.
1	—	1	Auto Truck—Truck ran into side of train; excessive speed of truck. Licence Ont. 50003.
1	—	1	Automobile—Section foreman failed to have track motor under control; collided with auto. Licence Ont. 748-S-2.
1	—	2	Auto Truck—Truck ran into side of train. Licence Ont. 75256-C.
1	—	1	Automobile—Auto ran into side of train. Licence Ont. 98-T-95.
1	—	1	Automobile—Auto ran into side of train. Licence Ont. 29-T-73.
1	—	1	Automobile—Auto ran into side of train. Licence Mich. X-39752.
1	1	—	Automobile—Auto attempted to beat train over crossing and was struck. Licence Ont. 5-Y-662.

MANITOBA

1	—	1	Auto Truck—Truck ran into side of train. Licence Man. T-7-564.
1	—	1	Gang Plough—Train struck gang plough; point of rear ploughshare caught on rail.

SASKATCHEWAN

1	—	1	Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Sask. 53913.
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ALBERTA

1	—	1	Auto Truck—Truck driver drove onto crossing in front of approaching train and was struck. Licence Alta. 1-946.
1	1	—	Horse Drawn Vehicle—Attempted to cross track in front of approaching train and was struck.

BRITISH COLUMBIA

1	—	2	Automobile—Auto ran into side of train. Licence B.C. 45979.
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Of the 25 accidents at highway crossings, 22 occurred at unprotected crossings, and 3 at protected crossings. Nineteen of the accidents occurred during the daylight hours, and 6 at night.

Nov. 5, 1937.

OFFICE OF THE SECRETARY OF THE INTERIOR
DEPARTMENT OF THE INTERIOR

WASHINGTON, D. C.

January 1, 1898

Sir,

I have the honor to acknowledge the receipt of your letter of the 29th inst.

and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Yours very truly,

Wm. H. Hunt

Secretary of the Interior

Enclosed for you are two copies of a report of the

Commissioner of the General Land Office, dated December 1st, 1897,

in relation to the proposed sale of the lands of the

United States in the State of California.

I am, Sir, very respectfully,
Yours very truly,

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The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

XXVII

Ottawa, December 2, 1937

No. 19

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

Dangerous Practices of Motorists, Drivers of Other Vehicles, and Pedestrians at Protected Crossings

In many cases accidents at highway crossings are due to negligence of those driving automobiles and other vehicles and of pedestrians. This negligence is found both at unprotected and protected crossings.

The Canadian National Railway lines from May 1, 1937, to October 30, 1937, show 148 cases where there was danger at protected crossings due to the negligence of those using the crossings.

The Canadian Pacific Railway from April 1, 1937, to September 30, 1937, show a total of 210 cases.

Notwithstanding safety devices and cautionary signals, people take chances and disregard safety. Motor accidents are becoming more frequent. Every sane motorist deplores this.

The Board hopes that the press will give as much publicity as possible to what is covered in the statement, with the hope that it may educate motor drivers and others to be more careful at crossings.

If accidents are to be lessened, the sane motorist must educate the culpably negligent motorists, some of whose actions are recorded in the following lists:—

CANADIAN NATIONAL RAILWAYS

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
April 28.....	2.00 p.m....	Lindsay St., Lindsay, Ont.	Ont. 51312C....	Watchman protecting crossing. Truck approaching about 30 miles per hour. Driver motioned watchman to move out of way. Watchman did not move and driver swung to right and went over crossing.
May 1.....	10.45 K.....	Water Ave., Winnipeg, Man.	T-2951.....	Ran through stop signal.
May 6.....	10.05 K.....	24th St., Saskatoon, Sask..	Sask. 11046.....	Disregarded both stationary and watchman's stop signals. Action was very deliberate.
May 10.....	11.35 a.m....	Water St., Summerside, P.E.I.	(1936) P.E.I. 1639.	Ignored stop signals.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
May 17.....	10.10 p.m...	"Petite Societe" M.P. 218.86 Jonquiere Subd'n.	Que. 100219.....	Auto did not stop at crossing. Struck third car from engine in batch of six empties being switched over crossing.
May 15.....	11.05 a.m...	Private crossing just east of Elrose Station, Sask.	No licence on truck.	Truck attempted to cross track and was struck by cars being backed up into elevator track.
May 15.....	2.10 p.m...	Victoria Jubilee Bridge, Montreal, Que.....	Que. 22-4098.....	Passed a red flag signal given by Yardman on crossing.
May 17.....	6.15 a.m...	Ferry St., Sydney, N.S....	71-932.....	Auto ran through southeast gate, smashing arm and nar- rowly avoided being hit by light engine.
May 17.....	6.10 p.m...	Victoria St., New Glas- gow, N.S.	62-409.....	Failed to stop when train was shunting over crossing.
May 25.....	3.25 p.m...	Water St., Summerside, P.E.I.	P.E.I. 2665.....	} Ignored stop signal.
May 25.....	4.20 p.m...	Logan Ave., Bathurst Stn., Toronto, Ont.	3548	
May 25.....	9.12 a.m...	Logan Ave., Bathurst Stn., Toronto, Ont.	Ont. 6676-C.....	Truck driver attempted to pass over crossing when gate was down.
April 28.....	12.30 a.m...	Walker Rd., Walkerville, Ont.	.....	Auto struck gate during fog, backed up and drove away. Gates were down. Vehicle crashed through gate.
May 28.....	10.46 p.m...	Henderson St., Quebec, Que.	Que. 6-680.....	Driving too fast. Applied brakes but auto skidded on wet pavement and struck side of train.
June 1.....	9.50 p.m...	First public crossing north of Blackburn Siding, Jonquiere Subd'n, Que.	Que. 192601 (1936).	Chauffeur saw engine going over crossing but owing to poor headlights on auto did not see cars and drove into side of train.
June 2.....	4.40 p.m...	Young St., Truro, N.S....	N.S. 50-214.....	Did not stop for signal. Drove auto onto track and stopped in front of engine.
June 2.....	1.15 p.m...	Pitt St., or St. Andrews Road, Cornwall, Ont....	Ont. 531-J-4....	Auto failed to stop when gates down and ran into same.
June 3.....	9.15 p.m...	Maple Ave., Montreal Term., Que.	Que. 128516.....	Auto did not stop at crossing, disregarding flagman's signal and collided with leading car of train.
June 4.....	7.25 p.m...	Atwater Ave., Montreal, Que.	Que. 22327.....	Auto failed to stop for red lantern.
June 4.....	7.50 p.m...	Atwater Ave., Montreal, Que.	Que. 48255.....	Failed to stop for red lantern.
June 8.....	13K.....	Crossing M.P. 84-93 Vegre- ville Subd'n, Alta.	Alta D-15-168...	Truck attempted to cross track in front of closely approaching train, paying no attention to engine whistle.
June 8.....	10.10 a.m...	Parent Square, second crossing east of St. Tite Station, Que.	Que. 39855.....	Truck and trailer failed to stop before attempting to cross and struck by train.
June 9.....	3.40 a.m...	Lutz St., Moncton, N.B....	.....	Auto ran through lowered gates.
June 9.....	9.32 p.m...	Queen and William St. crossings, Chatham, Ont.	Ont. 82-F-65....	Auto crashed through lowered gates.
June 16.....	4.35 p.m...	Egerton St., London, Ont.	Ont. 16-F-13....	Auto failed to stop at watch- man's warning and nearly ran him down. Narrowly escaped being struck by cars switching over crossing.
June 19.....	11.05 a.m...	Water St., Summerside, P.E.I.	P.E.I. 6431.....	Ignored stop signal.
June 19.....	8.10 a.m...	Crossing Route No. 15-A, Nairn Falls, Que.	Que. 103800.....	Auto failed to stop, look or listen before going onto crossing. Struck by extra east.
June 22.....	11.10 p.m...	Charlevoix St., Montreal, Que.	Que. 55240.....	Auto failed to stop for red lantern.
June 23.....	2.10 p.m...	Atwater Ave., Montreal, Que.	Que. 22-219.....	Auto travelling about 60 miles per hour ran through both gates. Bell ringing and gates had been down 1½ minutes.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
June 25.....	14.55 K....	Crossing at M.P. 76.6 Oyen Subd'n, Alta.	Alta. 40032.....	Driver of auto failed to make sure no train approaching before driving onto crossing.
June 26.....	9.07.....	Sixth St., Brandon, Man...	T-10-182.....	Truck driver ignored stop signal when train almost at crossing.
June 29.....	13.42 K....	Public Road, M.P. 83.2 Camrose Subd'n.	Alta 68-827.....	Auto attempted to cross in front of train when his car had defective brakes.
July 2.....	6.50 p.m...	Highway No. 7 north of of Sunderland, Ont.	Ont. 5558C.....	Truck and trailer approached crossing at high rate of speed and had to swing to wrong side of road to avoid striking car parked waiting for train to pass, and barely escaped striking train.
July 9.....	8.55 p.m...	Atwater Ave., Montreal, Que.	Que. 69100.....	Auto failed to stop for red lamp.
July 10.....	10.12 a.m...	Water St., Summerside, P.E.I.	P.E.I. 5777 2338.	Ignored stop signal.
July 11.....	6.45 p.m...	Pictou Crossing, Truro, N.S.	N.S. 15-383..... 53-293	Both autos collided on crossing, blocking same for about 20 minutes.
July 14.....	7.05 p.m...	Atwater Ave., Montreal, Que.	Que. 40965 135835	Autos failed to stop for red flag.
July 16.....	8.40 p.m...	Atwater Ave., Montreal, Que.	Que. 23879.....	Auto failed to stop for red flag.
July 22.....	8.40 p.m...	Atwater Ave., Montreal, Que.	Que. 23879.....	Auto failed to stop for red flag.
July 30.....	1.30 p.m...	St. James St., St. Johns, Que.	Que. L-2700....	Ran through lowered crossing gates.
July 31.....	14.38 K....	First Ave., East, Prince Albert, Sask.	23942.....	Auto drove past sign when engine switching cars over crossing.
Aug. 3.....	9.00 a.m...	Ontario St., Port Hope, Ont.	Ont. 12953-C...	Trailer of motor was left parked on track. Wayfreight delayed until garageman engaged to move trailer.
Aug. 4.....	8.10 p.m...	Young St., Truro, N.S.....	N.S. 86-109.....	Would not stop for red light, drove auto across in front of train. Watchman had to jump to save his life.
Aug. 5.....	17.20 K....	1st Ave. East, Prince Albert, Sask.	6694.....	Drove past stop sign when train just few feet away.
Aug. 6.....	15.41 K....	1st Ave. East, Prince Albert, Sask.	27481.....	Drove past stop sign when Rail Detector car approaching crossing.
Aug. 7.....	6.20 p.m...	Atwater Ave., Montreal, Que.	Que. 65827.....	Auto failed to stop for red flag.
Aug. 7.....	3.30 p.m...	Prince St., Truro, N.S....		Car turned on crossing, had to back to make turn, engine coming, watchman could not lower gate at right time.
Aug. 8.....	6.55 p.m...	Monkland Boul., Montreal, Que.	Que. 20-132.....	Failed to stop for flagman when engine approaching. Other autos and tramcar had stopped.
Aug. 9.....	8.40 p.m...	Laframboise St., St. Hyacinthe, Que.	Que. 81227.....	Passing against red signal displayed ahead of train.
Aug. 10.....	4.30 p.m...	Muskoka Rd., south of Gravenhurst, Ont., Highway No. 11.	Ont. 3-P-341....	Driver stopped on signal from brakeman. When engine was halfway over this man drove over back of engine and just missed striking brakeman, and against current of traffic. Driver turned and crossed second and third time. On being stopped by brakeman on third time he remarked he would go over crossing as often as he wished.
Aug. 10.....	6.30 p.m...	Prince St., Truro, N.S.....		Drove under gates being lowered at very fast rate of speed. Bell ringing.
Aug. 11.....	17.19 K....	1st Ave., East, Prince Albert, Sask.	25056.....	Drove past stop sign when engine spotting train at station.
Aug. 12.....	7.05 p.m...	Atwater Ave., Montreal, Que.	Que. 36299.....	Auto failed to stop for red flag.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
Aug. 12.....	8.00 p.m...	Prince St., Truro, N.S....	N.S. C-15-391..	Wheel on auto being towed broke, also tow chain, fouling main line about 5 minutes.
Aug. 13.....	15.43 K.....	1st Ave., East, Prince Albert, Sask.	F. 8793.....	Drove past stop sign when engine moving out from station over crossing.
Aug. 12.....	15.30 K.....	1st Ave., East, Prince Albert, Sask.	F. 6332.....	Drove past stop sign when engine backing over crossing.
Aug. 13.....	6.00 p.m...	St. Patrick St., Montreal, Que.	Que. F-7454....	Auto did not stop for red flag.
Aug. 16.....	5.10 p.m...	Prince St., Truro, N.S....	.....	Auto drove under gates while lowering. Bell ringing.
Aug. 17.....	7.10 a.m...	Front St., Bathurst Stn., Toronto, Ont.	Ont. 651-V-6...	Auto went under northwest gate after eastbound gate was down.
Aug. 17.....	5.00 p.m...	Laframboise St., St. Hyacinthe, Que.	Que. 80967.....	Passed stop signal with engine only 20 feet away from crossing.
Aug. 17.....	10.55 p.m...	Water St., Summerside, P.E.I.	P.E.I. 7203.....	Ignored stop signal.
Aug. 18.....	6.50 p.m...	Atwater Ave., Montreal, Que.	Que. 36672.....	Auto failed to stop for red flag.
Aug. 18.....	6.55 p.m...	.....	39526.....	.....
Aug. 20.....	7.10 p.m...	.....	128702.....	.....
Aug. 18.....	1.00 p.m...	Victoria St., New Glasgow, N.S.	C.14252.....	Did not stop when forced to, express running into coming in.
Aug. 19.....	7.10 p.m...	Atwater Ave., Montreal, Que.	Que. 50101.....	Auto failed to stop for red flag.
Aug. 20.....	5.46 p.m...	Kipling Ave., Mimico, Ont.	Ont. 31-X-65...	Auto crossed track when stop sign properly displayed.
Aug. 21.....	10.55 K.....	Avenue H, Saskatoon, Sask.	Sask. T.377.....	Truck coming along highway slowed up to stop then proceeded when train only 50 feet away.
Aug. 21.....	3.15 p.m...	Victoria St., New Glasgow, N.S.	C13-946.....	Truck driver refused to stop when very close to train shunting over crossing.
Aug. 23.....	11.00 a.m...	Laframboise St., St. Hyacinthe, Que.	Que. 81185.....	Auto passed under stop signal on left side while other autos were stopped for train.
Aug. 23.....	6.55 a.m...	Laframboise St., St. Hyacinthe, Que.	Que. 81200.....	Passed under stop signal close to approaching train.
Aug. 23.....	11.15 a.m...	Water St., Summerside, P.E.I.	P.E.I. 3186.....	Ignored stop signal.
Aug. 23.....	1.15 p.m...	.....	T508.....	.....
Aug. 24.....	5.44 p.m...	Strachan Ave., Bathurst Station, Toronto, Ont.	IR-593.....	Failed to heed warning bell. Auto was 100 yards away when bell first rung and attempted to beat gate over crossing.
Aug. 25.....	2.25 p.m...	Rectory St., London, Ont.	Ont. 1-F-22.....	Auto failed to heed warning gong and drove under lowering gates.
Aug. 26.....	8.00 a.m...	Bronson Ave., Ottawa, Ont.	Ont. 56-W-6....	Auto passed crossing watchman displaying stop signal on centre of crossing. Switch engine only 60 feet away.
Aug. 27.....	8.00 a.m...	Keele and St. Clair, Bathurst Station, Toronto, Ont.	Ont. 1-X-720...	Crossing against stop in front of engine.
Aug. 28.....	7.05 a.m...	Front St., Bathurst Station, Toronto, Ont.....	Ont. 65276-C....	Right traffic gates lowered but auto attempted to cross on wrong side of road.
Aug. 28.....	12.50 p.m...	Wallace Ave., Bathurst Station, Toronto, Ont.	Ont. 84-A-451..	One gate down and bell ringing. Auto drove between gates and driver refused to back off crossing.
Aug. 28.....	1.50 p.m...	Ottawa St., Hamilton, Ont.	Ont. 943-D-4....	Passed gate being lowered. Going too fast.
Aug. 28.....	14.47 K.....	St. Albert Trail, Edmonton, Alta.	Alta. 75-710....	Apparently not paying attention to train whistle, bell and wigwag, ran into side of train.
Aug. 30.....	1.10 p.m...	Main St., Hamilton, Ont..	Ont. 72-D-9....	Disregarded stop signal.
Aug. 31.....	21.43 K.....	96th St., Edmonton, Alta..	Alta. 32-132....	Disregarded city by-law requiring vehicles stop before crossing any non-protected steam railway level crossing. Struck engine.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
Sept. 2.....	6.50.....	Atwater Ave., Montreal, Que.	Que. 25520.....	Auto failed to stop for red lamp.
Sept. 2.....	6.50.....	Atwater Ave., Montreal, Que.	Que. X1222.....	Auto failed to stop for red lamp.
Sept. 2.....	7.40.....	Atwater Ave., Montreal, Que.	Que. 61972....	Auto failed to stop for red lamp.
Sept. 2.....	16.00 K.....	24th St., Saskatoon, Sask..	Sask. 13-313....	Disregarded watchman's stop signal and did not stop. Action seemed very deliberate.
Sept. 2.....	5.12 p.m....	Young St., Truro, N.S....	N.S. C 15-735...	Would not stop for signal. Drove truck across track directly in front of engine.
Sept. 3.....	16.30 K.....	99th St., Low Level Bridge, Edmonton, Alta.	Alta. 33726.....	Auto driver disregarded switch- man's flag and proceeded over bridge.
Sept. 3.....	6.50 p.m....	Atwater Ave., Montreal, Que.	Que. 137318....	Failed to stop for red lamp.
Sept. 4.....	7.05 p.m....	Atwater Ave., Montreal, Que.	Que. 41765....	Failed to stop for red lamp.
Sept. 5.....	14.55 K.....	Sixth St., Brandon, Man...	4.471.....	Auto drove over crossing against stop signal and engine only 66 feet away.
Sept. 6.....	6.20 p.m....	Young St., Truro, N.S....	N.S. 50-501.....	Would not stop for signal. Drove auto across track in front of train.
Sept. 6.....	10.30 p.m....	King Street, Sherbrooke, Que.	Que. 72071.....	Ran into and damaged lowered west gate.
Sept. 7.....	7.35 p.m....	Atwater Ave., Montreal, Que.	Que. 44541.....	Auto failed to stop for red lamp.
Sept. 7.....	1.10 p.m....	Water St., Summerside, P.E.I.	P.E.I. 7019.....	Ignored stop signal.
Sept. 8.....	12.30 p.m....	Ferguson Ave., Hamilton, Ont.	Ont. 21563-C...	Truck parked foul of track. Policeman had to get driver to remove truck before train could proceed.
Sept. 8.....	1.15 p.m....	Water St., Summerside, P.E.I.	P.E.I. 1826.....	Ignored stop signal.
Sept. 8.....	6.28 p.m....	Atwater Ave., Montreal, Que.	Que. 127985.....	Failed to stop for red lamp.
Sept. 8.....	11.45 K.....	1st Ave. East, Prince Al- bert, Sask.	23056.....	Auto passed stop sign while en- gine was crossing over crossing.
Sept. 10.....	7.50 p.m....	Atwater Ave., Montreal, Que.	Que. 128574....	Auto failed to stop for red lamp.
Sept. 11.....	7.10 p.m....	Norfolk St., Simcoe, Ont..	Ont. 60-K-14...	Auto failed to stop for red light signal.
Sept. 12.....	2.05.....	Mill St., Saint John, N.B..	N.B. 4158.....	Taxicab ran over sidewalk strik- ing stand and breaking gate and extension southeast con- trolling south tracks.
Sept. 13.....	6.20 p.m....	Atwater Ave., Montreal, Que.	Que. 40565.....	Auto failed to stop for red lamp.
Sept. 14.....	7.25 p.m....	Ferry St., Sydney, N.S....	73-524.....	Auto ran into left south gate, smashing arm.
Sept. 14.....	10.15 p.m....	Broad St., Ottawa, Ont...	Que. F-18-965...	Auto drove past standing autos and watchman, running into side of train.
Sept. 15.....	10.58 a.m....	Echo Drive, Ottawa, Ont..	Ont. 377-W-7...	Auto slowed down to almost stopped, then started up again and crossed over against signal, about 200 ft. in front of ap- proaching train.
Sept. 16.....	9.32 a.m....	First crossing north of Palgrave, Ont.	Ont. A-59517B..	Truck went over crossing im- mediately ahead of train and almost struck. Proper signals sounded.
Sept. 17.....	11.00 a.m....	Egerton St., London, Ont..	Ont. 8-F-836....	Auto driver failed to heed stop signals and continued over tracks, barely missing yard- master signalling on crossing.
Sept. 20.....	6.55 p.m....	Atwater Ave., Montreal, Que.	Que. F-6581.....	Auto failed to stop for red lamp.
Sept. 23.....	7.55 a.m....	Public Road at Bigras Island Station, Que.	Que. 1-932.....	Auto did not stop and passed over crossing right in front of engine.

CANADIAN NATIONAL RAILWAYS—Continued

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
Sept. 24.....	11.30 a.m...	Victoria Jubilee Bridge, Montreal, Que.	Que. F.15-334...	Flagman had stopped traffic, but truck came from behind and ran in front of moving train and missed being struck by about one car length.
Sept. 25.....	3.42 a.m...	Norwich Ave., Woodstock, Ont.	Ont. 98-E-77...	Auto ran into side of car standing on crossing. Failed to observe crossing bell.
Sept. 25.....	9.35 a.m...	College St., Lennoxville, Que.	Que. 75548.....	Auto ran into lowered gates.
Sept. 25.....	7.15 p.m...	Atwater Ave., Montreal, Que.	Que. 43330.....	Auto failed to stop for red lamp.
Sept. 28.....	5.15 p.m...	First crossing south, Beeton, Ont.	Ont. 96-V-16...	Driver failed to see or hear train until too close to stop, turned into ditch, ran into fence and up ditch and struck train. Proper signals sounded.
Sept. 28.....	5.50 p.m...	Prince St., Truro, N.S....	N.B. 52-604 N.B. 50-322	Two autos met head-on on crossing.
Sept. 29.....		118th Ave., Edmonton, Alta.	Alta. 73-283....	Auto endeavoured to get by before gate down, breaking gate.
Sept. 30.....	3.45 p.m...	Water St., Summerside, P.E.I.	P.E.I. T 358....	Auto backed over crossing.
Sept. 30.....	9.09 K....	Eleventh St., Saskatoon, Sask.	Sask. 16-375....	Drove up and stalled on crossing. Struck by train.
Oct. 1.....	20.55 K....	Water Ave., Winnipeg, Man.	Man. 6881.....	Went against red light.
Oct. 1.....	4.40 p.m...	Royce Ave., Toronto, Ont.	Ont. 7808-C....	Drove under lowered gates.
Oct. 1.....	11.10 p.m...	Royce Ave., Toronto, Ont.	Ont. 492-B-3....	Ran into lowered gates.
Oct. 1.....	17.11 K....	1st Ave. East, Prince Albert, Sask.	23092.....	Drove past stop sign when engine approaching.
Oct. 1.....	17.16 K....	1st Ave. East, Prince Albert, Sask.	T-1510.....	Failed to stop when sign against him and drawing other cars into danger.
Oct. 2.....	14.35 K....	1st Ave. East, Prince Albert, Sask.	44184.....	Drove past stop sign when motor car approaching and showing others bad example.
Oct. 2.....	1.25 a.m...	Royce Ave., Toronto, Ont.	Ont. 5-D-13....	Auto ran into lowered crossing gates.
Oct. 2.....	4.10 p.m...	Water St., Summerside, P.E.I.	P.E.I. 7765....	Ignored stop signal.
Oct. 3.....	14.00 K....	Main St., Gladstone, Man..		Ignored stop signal. Crossed ahead of engine to beat train over crossing.
Oct. 3.....	12.45 K....	Main St., Gladstone, Man..		Ignored stop signal. Crossed ahead of engine to beat train over crossing.
Oct. 5.....	7.00 a.m...	Main St., Jarvis, Ont.		Truck ran into lowered crossing gates.
Oct. 6.....		Broadway St., Yorkton, Sask.	Sask. 30425....	Auto driven onto crossing in front of train.
Oct. 6.....	7.40 p.m...	Atwater Ave., Montreal, Que.	Que. 71566.....	Auto failed to stop for red lamp.
Oct. 7.....	11.23 K....	Main St., Gladstone, Man..	49058.....	Ignored stop signal. Crossed ahead of engine to beat train over crossing.
Oct. 8.....	23.00 K....	Private crossing east of Hubbard Station, Sask.	Sask. 4-352....	Truck attempted to cross in front of train.
Oct. 8.....	8.01 a.m...	John St., Aylmer, Ont....	38375C.....	Truck collided with standard of crossing gate, damaging same.
Oct. 9.....	20.50 K....	Water Ave., Winnipeg, Man.	Man. 21-226....	Auto went against red light.
Oct. 11.....	7.45 p.m...	Mill St., Saint John, N.B..	N.B. 7281.....	Auto ran into gate, breaking casting. Signals sounded.
Oct. 11.....	7.05 p.m...	Atwater Ave., Montreal, Que.	Que. 23600.....	Auto failed to stop for red lamp.
Oct. 14.....	4.40 p.m...	Water St., Summerside, P.E.I.	P.E.I. 1127....	Ignored stop signal.
Oct. 15.....		Hunter and Simcoe Sts., Peterboro, Ont.	Ont. 9-R-926...	Auto parked foul of main line. Auto was moved clear by someone other than owner.
Oct. 21.....	7.30 a.m...	George St., New Glasgow, N.S.	N.S. 63-740....	Auto drove up and hit gate, breaking off about 10 feet.

CANADIAN NATIONAL RAILWAYS—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
Oct." 21.....	11.00 a.m...	George St., New Glasgow, N.S.	.....	Drove into gate with horse, breaking off about five feet of one arm.
Oct. 21.....	7.55 p.m...	Atwater Ave., Montreal, P.Q.	Que. 10574.....	Auto failed to stop for red lamp.
Oct. 21.....	9.15 p.m...	Atwater Ave., Montreal, P.Q.	Que. 61399.....	Auto failed to stop for red lamp.
Oct. 21.....	10.45 a.m...	Water St., Summerside, P.E.I.	P.E.I. 7128.....	Auto backed and stopped on crossing.
Oct. 28.....	10.08 K.....	Private crossing at east end of Kelliher Station, Sask.	Sask. 7-1607....	Truck drove onto track directly in front of approaching train.
Oct. 30.....	8.10 p.m...	Main St., Palmerston, Ont.	Ont. 62-P-18....	Passed stop sign. Train switching on crossing.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)

NEW BRUNSWICK DISTRICT

April 15.....	2.40 p.m...	Main St., Fairville.....	J-7805.....	Car passed under gates while being lowered. Warning bell was ringing.
May 3.....	7.40 a.m...	Main St., Fairville.....	2410.....	Car passed under gates while being lowered, at about 30 miles per hour.
May 20.....	9.20 a.m...	Douglas Ave., Saint John.	C-2143.....	Truck passed under gates while being lowered. Warning bell was ringing.
June 9.....	1.00 p.m...	Douglas Ave., Saint John..	6324.....	Car passed under gates while being lowered, car moving very fast. Warning bell was ringing.
June 10.....	6.20 a.m...	Main St., Fairville.....	4294 and 2277...	Cars approached gates from west side at about 40 miles per hour and gates had to be raised to avoid them being struck.
June 12.....	1.15 p.m...	Douglas Ave., Saint John..	6134.....	Car stopped at gates while bell ringing, but before gates lowered car passed under same and over crossing.
June 30.....	9.45 p.m...	Main St., Fairville.....	7182.....	Car passed under gates while same being lowered. Warning bell was ringing. Being driven by an officer of the R.C.M.P.
Aug. 28.....	9.10 a.m...	Main St., Fairville.....	C-1506.....	Auto drove under gates and over tracks while bell ringing and gates being lowered.
Aug. 30.....	12.40 p.m...	Main St., Fairville.....	32-951.....	Auto drove under gates and over tracks while bell ringing and gates being lowered.
Aug. 31.....	11.25 a.m...	Douglas Ave., Saint John..	13-080.....	Auto passed under west gate while it was being lowered. Bell ringing.
Sept. 2.....	3.53 p.m...	72.80 Shogomoc Subdivision.	C-2523.....	B.A. Oil truck went over crossings in face of train, although wig-wags operating at time. (Matter drawn to attention of Oil Company.)
	4.00 p.m...	63-06 " "		
Sept. 10.....	12.55 p.m...	Douglas Ave., Saint John.	6-180.....	Auto passed other cars stopped at crossing and drove under gates and across track. Bell ringing.
Sept. 23.....	7.30 p.m...	Main St., Fairville.....	1093.....	Auto drove under gates as they were being lowered, and went across tracks. Bell ringing.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—Continued

QUEBEC DISTRICT

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
April 8.....	12.12 p.m...	Crown St., Quebec.....	5069.....	After crossing bell had been rung, gateman started to lower gates on north side but stopped when he observed 3 autos had moved onto crossing from south side—a 4th auto, which had been some distance behind the others, also ran onto crossing and moved to right side and iron support rod on northeast gate caught top of auto and damaged canvas cover.
May 10.....	10.58 p.m...	Crown St., Quebec.....	6450.....	After gateman had lowered gates on north side he was preparing to lower gates on south side for movement of train, when auto, travelling from south to north, moved onto crossing and failed to stop, striking and breaking arm of northeast gate.
June 15.....	7.05 a.m...	Crown St., Quebec.....	6406.....	While gates were lowered on both sides for movement of yard engine, an auto, travelling from north to south, failed to stop, striking and breaking northwest gate arm. The auto stopped just clear of yard engine moving over crossing. The party driving auto stated that the brakes had failed to hold when applied.
June 20.....	8.55 a.m...	Westminster Ave., Montreal West.	92474.....	Crossing gates being lowered for movement of train, when auto, travelling from north to south, moved under descending gate arm on north side and continued on, breaking tip of gate arm on south side of crossing. The party driving car failed to stop after striking gate arm.
June 20.....	.....	Cote de Liesse Rd., Dorval.	48411.....	North side gate broken.
July 22.....	.....	Cote de Liesse Rd., Dorval.	60225-H.....	End of fence broken along C.N.R. platform.
Aug. 14.....	2.24 p.m...	27.6 Lyndonville Subdi- vision.	Mass. 518289....	Auto travelling at high rate of speed, passed car stopped at crossing, ran up bank and was struck by train. Wig-wag signal functioning at time.
Aug. 16.....	12.30 p.m...	Bridge St., Quebec.....	5505.....	Auto passed cars stopped at crossing, while gates being raised, and ran into and broke southeast gate arm.
Aug. 28.....	12.35 p.m...	Elmhurst Ave., Montreal..	K-503.....	Auto truck ran through gates while they were being lowered.
Aug. 31.....	12.25 p.m...	Montcalm St., Hull West..	F-10180.....	Truck stopped for crossing but started again before gates raised clear, damaging northeast gate.
Sept. 2.....	11.55 p.m...	Bridge St., Quebec.....	Unable obtain..	Auto ran through both north and south gates and did not stop.
Sept. 7.....	11.45 p.m...	Bordeaux.....	Unable obtain..	Auto passed under gates while they were being lowered and broke arm on north side.
Sept. 15.....	.....	Cote de Liesse Road, Dorval.	F-15713.....	Rod on gate bent.
Sept. 29.....	7.15 a.m...	Elmhurst Ave., Montreal..	64-443.....	Auto failed to stop before coming in contact with northwest gate arm, which was broken.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—Continued

ONTARIO DISTRICT

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
April 10.....	8.22 p.m...	Richmond St., London...	2-F-848.....	Auto going north at fast rate of speed crashed through south gate arms and narrowly missed being struck by engine. Gates down, lanterns lit and crossing bell ringing.
April 24.....	10.45 p.m...	Front St., and Spadina Ave., Toronto.	.....	Auto approached crossing on Front Street traveling east-bound while all gates were up and struck gate standard between T.T.C. tracks, which was protected by red lantern hanging on standard.
April 29.....	4.40 p.m...	Osler Ave., Toronto.....	.....	Gates had been lowered for passing train and were in lowered position when auto was about 175 feet south of gate, travelling northbound. Auto did not stop until striking gate, and breaking same.
May 1.....	11.45 a.m...	Richmond St., London...	519-D-7.....	Auto disregarded stop signal and crossed tracks in front of yard engine.
May 6.....	2.30 p.m...	Front St., and Spadina Ave., Toronto.	.....	Truck northbound on Spadina Avenue was driven too close to east gate, south side of Front Street, which was in raised position, striking and breaking gate.
May 8.....	10.55 p.m...	Waterloo St., London.....	2-F-606.....	Auto came off team track drive down main line track to Waterloo Street crossing in front of freight train.
May 10.....	4.00 p.m...	Wellington St. W., Toronto	.....	Auto travelling westbound at high rate of speed disregarded stop sign displayed by flagman at crossing while train approaching and drove over crossing without slackening speed.
May 11.....	11.30 a.m...	Richmond St., London...	4-F-479.....	Auto disregarded stop signal and crossed tracks in front of yard engine.
May 12.....	5.32 p.m...	Front St., and Spadina Ave., Toronto.	.....	While gates down, truck being driven westbound approached crossing at about 15 miles per hour and skidded into north-east gate, breaking axle at gate stand. Raining at time of accident and roadway slippery. Driver stated saw gates down in time and approached slowly but when brakes applied truck skidded.
May 13.....	9.00 a.m...	Front St., and Spadina Ave., Toronto.	.....	Truck northbound on Spadina Avenue when turning east on Front Street was driven too close to gate which was in upright position, striking and damaging barrier.
May 28.....	12.05 a.m...	Quebec St., London.....	6-F-840.....	Auto failed to see crossing watchman's stop signals or hear engine bell ringing and ran into side of engine.
June 13.....	1.00 p.m...	Richmond St., London...	4-F-118.....	As crossing bell ringing and gates lowered, auto going north skidded on wet pavement breaking hydro pole and crossing sign post.

CANADIAN PACIFIC RAILWAY (EASTERN LINES)—*Concluded*ONTARIO DISTRICT—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
June 23.....	9.50 a.m...	McLennan Ave., Toronto..	.....	Front wheel of truck came off when truck on eastbound main line as truck moving north-bound over crossing. Street traffic held up for 15 minutes—no trains approached during this time.
June 30.....	8.35 p.m...	Tecumseh Rd., Windsor..	43-H-5.....	Auto passed yardman as he was flagging crossing in spite of fact stop signal was given to auto.
July 5.....	.....	Quebec St., London.....	.....	Truck drove past stop signal and driver used abusive language to watchman.
July 13.....	6.50 p.m...	McLennan Ave., Toronto..	.....	While all gates down and long line of autos standing on hill north of track, auto was driven from rear of line and stopped on wrong side of street along-side leading auto, being in such a position as to hold up north-bound traffic when gates were raised.
Aug. 5.....	6.10 p.m...	Thames St., Ingersoll....	680-E-7.....	Auto, travelling on wrong side of street, ran into and broke left arm of west gate.
Aug. 13.....	9.00 a.m...	Richmond St., London...	9-F-348.....	Auto disregarded watchman's stop sign, crossed tracks and narrowly missed being struck by engine.
Aug. 18.....	11.20 a.m...	Richmond St., London...	886-E-6.....	Auto disregarded watchman's sign and passed standing cars, crossing over tracks in front of engine.
Aug. 21.....	7.45 p.m...	Adelaide St., London....	5-Z-704... 751-E-7.	Watchman standing in centre of crossing. Auto 5-Z-704, travelling fast, stopped so suddenly car 751-E-7 ran into rear end of first auto and nearly knocked crossing watchman down.
Aug. 31.....	6.35 a.m...	Richmond St., London...	4-F-401.....	Auto ran into southwest gate arm.
Sept. 14.....	12.38 p.m...	Front St., and Spadina Ave., Toronto.	.....	Auto travelling eastbound on Front Street struck southeast gate which was in lowered position. Engine bell ringing.
Sept. 15.....	5.45 p.m...	Waterloo St., London....	9-F-461.....	Auto ran into southeast gate arm, breaking it. Crossing bell ringing at the time.
Sept. 18.....	10.45 a.m...	Richmond St., London...	2-F-367.....	Auto disregarded watchman's stop sign and crossed tracks ahead of engine.
Sept. 26.....	12.05 p.m...	William St., Chatham....	Unable obtain..	Auto going south on wrong side of street ran through lowered gate arms, breaking same.

ALGOMA DISTRICT

April 25.....	8.10 p.m...	Elm St., Sudbury.....	.....	Auto ran into and broke southwest gate just as gates were being lowered.
June 8.....	3.50 p.m...	Elm St., Sudbury.....	61706-C.....	Truck ran into and broke southwest gate. When turning out of driveway onto street, turned too sharply with above result. Gates were up at time.
Aug. 3.....	12.55 p.m...	Elm St., Sudbury.....	61493-C.....	Truck ran into and broke southwest gate as it was being lowered. Bell ringing.

CANADIAN PACIFIC RAILWAY (WESTERN LINES)

SASKATCHEWAN DISTRICT

Regina Division

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
April 7.....	8.50 K.....	Winnipeg St., Regina.....	CV-242, T-993, 3-549.	Vehicles moved over crossing when bell ringing and train approaching.
April 12.....	8.45 K.....	Winnipeg St., Regina.....	8-058.....	Vehicles moved over crossing when bell ringing and train approaching.
April 20.....	8.45 K.....	Winnipeg St., Regina.....	51-017, 2-771, 916.	Vehicles moved over crossing when bell ringing and train approaching.
April 21.....	8.50 K.....	Winnipeg St., Regina.....	5128, 57-400, 794	Vehicles moved over crossing when bell ringing and train approaching.
April 22.....	8.50 K.....	Winnipeg St., Regina.....	T-965, T-145, T-997, 49-496.	Vehicles moved over crossing when bell ringing and train approaching.
April 23.....	8.48 K.....	Winnipeg St., Regina.....	T-873, 80-460, CV-241.	Vehicles moved over crossing when bell ringing and train approaching.
April 29.....	8.48 K.....	Winnipeg St., Regina.....	2-667.....	Vehicle moved over crossing when bell ringing and train approaching.
April 30.....	8.50 K.....	Winnipeg St., Regina.....	T-895, 45-821, CV-72, CV- 627.	Vehicles moved over crossing when bell ringing and train approaching.
May 4.....	8.10 K.....	Winnipeg St., Regina.....	CV-757, CV-590, FV-280, T- 1109, 2-847.	Vehicles moved over crossing when bell ringing and train approaching.
May 7.....	7.45 K.....	Winnipeg St., Regina.....	8-005, 52-965, T-974, 65-320.	Vehicles moved over crossing when bell ringing and train approaching.
May 8.....	8.40 K.....	Winnipeg St., Regina.....	4-735, 4-990, 59-800.	Vehicles moved over crossing when bell ringing and train approaching.
May 21.....	8.42 K.....	Winnipeg St., Regina.....	10-156, T-983, T-993.	Vehicles moved over crossing when bell ringing and train approaching.
May 23.....	8.40 K.....	Winnipeg St., Regina.....	T-12-69 T-102..	Vehicles moved over crossing when bell ringing and train approaching.
June 1.....	8.40 K.....	Winnipeg St., Regina.....	T-8556, T-1110, CV-971.	Vehicles moved over crossing when bell ringing and train approaching.
June 19.....	8.45 K.....	Winnipeg St., Regina.....	FV-539, 49-393,	Vehicles moved over crossing when bell ringing and train approaching.
June 22.....	8.45 K.....	Winnipeg St., Regina.....	T-928.....	Vehicles moved over crossing when bell ringing and train approaching.
June 27.....	8.45 K.....	Winnipeg St., Regina.....	4-963, 46-803....	Vehicles moved over crossing when bell ringing and train approaching.
April 2.....	14.40 K.....	Elphinstone St., Regina..	190.....	Vehicle moved over crossing when bell ringing and train approaching.
April 2.....	15.15 K.....	Elphinstone St., Regina..	1021.....	Vehicles moved over crossing when bell ringing and train approaching.
June 16.....	15.10 K.....	Elphinstone St., Regina..	50-345.....	Vehicles moved over crossing when bell ringing and train approaching.
June 16.....	8.45 K.....	Elphinstone St., Regina..	1-258.....	Vehicles moved over crossing when bell ringing and train approaching.
July 3.....	8.42 K.....	Winnipeg St., Regina.....	1-278, 6-541.....	Moved over crossing when bell ringing and train approaching.
July 5.....	8.50 K.....	Winnipeg St., Regina.....	59-234.....	Moved over crossing when bell ringing and train approaching.
July 8.....	8.50 K.....	Winnipeg St., Regina.....	762.....	Moved over crossing when bell ringing and train approaching.
July 28.....	8.45 K.....	Winnipeg St., Regina.....	66-891, T-101, 2-083.	Moved over crossing when bell ringing and train approaching

CANADIAN PACIFIC RAILWAY (WESTERN LINES)—Continued

SASKATCHEWAN DISTRICT—Continued

REGINA DIVISION—Concluded

Date	Time	Crossing	Licence No. of auto	Dangerous Practice
July 31.....	8.55 K....	Winnipeg St., Regina.....	T-96.....	Moved over crossing when bell ringing and train approaching.
Aug. 14.....	8.50 K....	Winnipeg St., Regina.....	4-534, 42-849....	Moved over crossing when bell ringing and train approaching.
Aug. 16.....	8.50 K....	Winnipeg St., Regina.....	470, 395, T-35, 3-343.	Moved over crossing when bell ringing and train approaching.
Aug. 17.....	8.47 K....	Winnipeg St., Regina.....	50-260.....	Moved over crossing when bell ringing and train approaching.
Aug. 22.....	8.45 K....	Winnipeg St., Regina.....	78-189.....	Moved over crossing when bell ringing and train approaching.
Aug. 25.....	8.50 K....	Winnipeg St., Regina.....	UT-9, 83-013...	Moved over crossing when bell ringing and train approaching.
Aug. 30.....	8.50 K....	Winnipeg St., Regina.....	744, FV-386, 45-760.	Moved over crossing when bell ringing and train approaching.
Sept. 21.....	8.45 K....	Winnipeg St., Regina.....	47-928, 2-341, 47-928.	Moved over crossing when bell ringing and train approaching.
Sept. 24.....	8.45 K....	Winnipeg St., Regina.....	5-116, 58-510....	Moved over crossing when bell ringing and train approaching.
Sept. 28.....	8.45 K....	Winnipeg St., Regina.....	FV-128.....	Moved over crossing when bell ringing and train approaching.
July 3.....	7.40 K....	Elphinstone St., Regina...	69-853.....	Moved over crossing when bell ringing and train approaching.
July 16.....	8.45 K....	Elphinstone St., Regina...	1-258.....	Moved over crossing when bell ringing and train approaching.
July 16.....	15.10 K....	Elphinstone St., Regina...	50-345.....	Moved over crossing when bell ringing and train approaching.

Moose Jaw Division

April 14.....	17.35 K....	M. 73.7 Swift Current Sub., (Morse).	6-255.....	Auto failed to stop before passing ahead of train.
April 28.....	7.38 K....	M. 73.7 Swift Current Sub., (Morse).	6-802 and 44-757	Disregarded bell.
May 10.....	7.35 K....	M. 73.7 Swift Current Sub., (Morse).	7-7388.....	Disregarded bell.
May 28.....	14.48 K....	M. 73.7 Swift Current Sub., (Morse).	3-527 and 159...	Disregarded bell.
June 2.....	6.00 K....	M. 73.7 Swift Current Sub., (Morse).	4-594.....	Disregarded bell.
June 28.....	.....	M. 73.7 Swift Current Sub., (Morse).	CV-972.....	Disregarded bell.

Saskatoon Division

April 1.....	18.05 K....	Broadway, Yorkton.....	T-145(36).....	Regardless of signals crossed in front of engine.
April 13.....	18.35 K....	Broadway, Yorkton.....	27-055(36).....	Regardless of signals crossed in front of engine.
April 15.....	19.36 K....	Broadway, Yorkton.....	27-930.....	Regardless of signals crossed in front of engine.
April 27.....	17.00 K....	Broadway, Yorkton.....	52-210.....	Regardless of signals crossed in front of engine.
April 30.....	16.25 K....	Broadway, Yorkton.....	30-055(36).....	Regardless of signals crossed in front of engine.
May 4.....	17.25 K....	Broadway, Yorkton.....	27-526.....	Regardless of signals crossed in front of engine.
May 8.....	18.45 K....	Broadway, Yorkton.....	31-328.....	Regardless of signals crossed in front of engine.
May 12.....	17.25 K....	Broadway, Yorkton.....	31-127.....	Regardless of signals crossed in front of engine.
May 13.....	16.00 K....	Broadway, Yorkton.....	29-664.....	Regardless of signals crossed in front of engine.
May 13.....	16.35 K....	Broadway, Yorkton.....	71-308(36).....	Regardless of signals crossed in front of engine.
May 14.....	17.40 K....	Broadway, Yorkton.....	29-541.....	Regardless of signals crossed in front of engine.

CANADIAN PACIFIC RAILWAY (WESTERN LINES)—*Concluded*SASKATCHEWAN DISTRICT—*Concluded*SASKATOON DIVISION—*Concluded*

Date	Time	Crossing	Licence No. of auto	Dangerous Practices
May 19.....	16.35 K.....	Broadway, Yorkton.....	67-320.....	Regardless of signals crossed in front of engine.
May 20.....	15.10 K.....	Broadway, Yorkton.....	29-503.....	Regardless of signals crossed in front of engine.
May 20.....	15.25 K.....	Broadway, Yorkton.....	31-578.....	Regardless of signals crossed in front of engine.
May 20.....	16.45 K.....	Broadway, Yorkton.....	29-477.....	Regardless of signals crossed in front of engine.
May 20.....	18.00 K.....	Broadway, Yorkton.....	29-533.....	Regardless of signals crossed in front of engine.
May 20.....	18.20 K.....	Broadway, Yorkton.....	30-372.....	Going to pass over in front of engine but stopped about one foot from track.
May 22.....	20.15 K.....	Broadway, Yorkton.....	T-1400(36).....	Regardless of red light passed over in front of cars pushed by engine.
May 27.....	15.25 K.....	Broadway, Yorkton.....	29-471.....	Regardless of stop signal passed over in front of engine.
May 28.....	15.55 K.....	Broadway, Yorkton.....	29-438.....	Regardless of stop signal passed over in front of engine.
April 21.....	21.32 K.....	Avenue A, Saskatoon.....	12-850.....	Regardless of red light displayed drove up to track and would have crossed but stopped by watchman.
May 24.....	20.28 K.....	Avenue A, Saskatoon.....	D-98.....	Drove over crossing ahead of engine.
May 31.....	17.21 K.....	Avenue A, Saskatoon.....	17-284.....	Drove over crossing ahead of engine.
July 6.....	15.40 K.....	Broadway, Saskatoon.....	28-542.....	Regardless of stop signal drove in front of engine.
July 10.....	18.55 K.....	Avenue A, Saskatoon.....	20-036.....	Regardless of stop signal drove in front of engine.
July 14.....	19.40 K.....	Broadway, Yorkton.....	FV-889.....	Regardless of stop signal drove in front of engine.
Aug. 24.....	18.15 K.....	Broadway, Yorkton.....	29-752.....	Regardless of stop signal drove in front of engine.
Aug. 26.....	17.30 K.....	Broadway, Yorkton.....	29-855.....	Regardless of stop signal drove in front of engine.
Sept. 1.....	19.30 K.....	Broadway, Yorkton.....	T-9716.....	Regardless of stop signal drove in front of engine.
Sept. 2.....	15.25 K.....	Broadway, Yorkton.....	64-676 (Man.)...	Regardless of stop signal drove in front of engine.
Sept. 17.....	17.40 K.....	Broadway, Yorkton.....	30-884.....	Regardless of stop signal drove in front of engine.
Sept. 17.....	15.20 K.....	Broadway, Yorkton.....	31-330.....	Regardless of stop signal drove in front of engine.

ALBERTA DISTRICT

June 5.....	21.40 K.....	Allowance Ave., Medicine Hat.	C-5-809.....	Truck ran into crossing gate breaking same.
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BRITISH COLUMBIA DISTRICT

May 14.....	20.15 K.....	Vancouver, North Van-	B.C.77-594.....	Drove under crossing gate as it was coming down.
May 21.....	17.15 K.....	couver Ferry. Vancouver, North Van-	.....	Auto drove under gate when gate on opposite side of track already down.

STATEMENT OF MISHAPS AT PUBLIC HIGHWAY CROSSINGS WHERE NO PERSONAL INJURY INVOLVED

MANITOBA DISTRICT

Division	Date	Location	Particulars
<i>Kenora.....</i>	Feb 18...	Trans-Canada Highway crossing, MP 49.38 Lac du Bonnet SD. (near Gonor, Man.)	When train was passing over crossing, truck, Manitoba licence T6-282, travelling south, ran into north side of train.
<i>Winnipeg Terl.....</i>	Mar. 6...	Levis Street crossing, Elmwood, siding A-5, Winnipeg Terls.	When yard engine 6949 was making a drop of CP 210046, coal, for Elmwood Fuel Company, Winnipeg, Electric Street Railway car 286, proceeding south on Watt Street did not clear the diamond in sufficient time to avoid being struck by above mentioned car. Rear truck of street car derailed and hole punctured in rear of same.
	June 24...	Munroe Ave. crossing, Mileage 62 Lac du Bonnet SD., Winnipeg Terls.	When train with two coaches was approaching crossing, a small truck, which had been converted into a wood cutting machine, Manitoba licence number T-3600, drove on to the crossing and stalled just ahead of train.
<i>Portage.....</i>	Jan. 5...	First public crossing North Selkirk station, Mileage 21.08 Winnipeg Beach SD.	When engine and one car was backing over crossing, Chevrolet coupe, Manitoba licence 4-531, ran into side of car, breaking off crossover pipe and triple of air brake.
	Jan. 9...	Wolseley Ave. crossing, Mileage 3.29 La Riviere S.D.	When train was passing over crossing, automobile, Manitoba licence 8-635, ran into side of engine.
	Mar. 1...	Broadway Street public crossing, first crossing west Deloraine station, Mileage 89.9 La Riviere SD.	While engine and three cars were backing over crossing, struck Ford delivery truck, Manitoba licence CT-220.
	June 19...	Ash Street crossing, first public crossing north of Winnipeg Beach station, Mileage 47.37 Winnipeg Beach SD.	Train struck the rear of truck, Manitoba licence T-4-784.

SASKATCHEWAN DISTRICT

<i>Saskatoon Division—</i>	Jan. 2...	Avenue E, Saskatoon (Mileage 0.3 Wilkie Sub.)	When yard engine was backing down from west yard, with one car west of engine, struck auto, licence FV.1115 (1936). Driver did not see engine as wind shield frozen over. Headlight on rear of engine burning; bell ringing and whistle sounded for crossing.
	Jan. 21...	Myrtle Avenue, Yorkton. (Mileage 26.13 Wynyard Sub.)	When train travelling at about six miles per hour approaching crossing, truck travelling north ran into pilot of engine. Whistle was blowing for crossing and bell ringing.
	Feb. 8...	12 poles west of Mileage 108, Sutherland Sub.	Extra engine struck a heavy team hauling a closed sleigh which was about to drive over crossing. Whistle signal sounded approaching crossing, but driver claimed same not heard.
	Mar. 17...	Mileage 14.6, Sutherland Sub.	Train struck and killed one horse of team attached to load of grain. Man was in charge of two sleighs, the first got stuck on crossing. Driver noticed train and released team from first sleigh and while doing this, second team came up on crossing and were struck by train. Train travelling at about 60 miles per hour and engineer unable to stop train in time to avoid mishap. All statutory signals had been sounded.

STATEMENT OF MISHAPS AT PUBLIC HIGHWAY CROSSINGS WHERE NO PERSONAL INJURY INVOLVED—*Concluded*

ALBERTA DISTRICT

Division	Date	Location	Particulars
<i>Lethbridge Division....</i>	Jan. 18/37	Mileage 81, Crowsnest Sub...	Train struck sleigh which was stalled on farm crossing. Drivers of engine skidded.
	June 22/37	Mileage 43.86, Macleod Sub..	Ford sedan—Alberta licence 60676, stopped too close to track as train approached and right auto fender, headlight and radiator damaged by contact with engine cab steps.
<i>Calgary Division.....</i>	April 21/37	Mileage 2.44, Red Deer Sub.	Auto, licence 7-204, which attempted to cross in front of train was struck and thrown into ditch. Driver of auto did not hear train approaching account strong wind.
	May 13/37	15th St. E., Calgary.....	Auto struck by train on crossing. Driver did not see or hear train in time to avoid mishap.
<i>Edmonton Division...</i>	Jan. 28/37	Mileage 80.5 Wetaskiwin Sub.	When extra passing highway crossing Ford coupe, licence 45305, slid into side of second car from caboose.
	Jan. 29/37	104th St. S., Edmonton.....	When transfer train stopped at Whyte Ave. rear of train was on 104th St. Auto with Alberta licence L-173, ran into side of train. Driver of auto failed to stop although stop sign on each side of crossing.
	Feb. 22/37	104th St. S., Edmonton.....	When train proceeding over crossing, Ford sedan, Alberta licence 57217, ran into side of engine. Driver of auto failed to stop although stop sign on each side of crossing.

BRITISH COLUMBIA DISTRICT

<i>Revelstoke Division...</i>	Feb. 1...	Barnard Ave., Vernon.....	When train passing over crossing at 5 miles per hour, auto, B.C.36-641, ran into front step of tender.
	Mar. 19...	Price St., Vernon (C.N.R.).	Joint switch engine backing north with 13 cars, Ford auto came from west and stalled on crossing, being struck by leading car.
<i>Vancouver Division...</i>	Jan. 28...	Salsbury Drive, Vancouver..	Yard engine shoving three cars struck auto B.C. 69-643.
	Feb. 10...	Homer St. (Industrial track) Vancouver.	Auto B.C. C-6-628, driving on roadway when wheel caught in ruts in snow and ice and slewed automobile against car handled by yard engine.
	Mar. 6...	Columbia Ave., New Westminster.	Auto. truck, B.C.: 8-525, running on Columbia Ave. parallel to track, crossed track almost immediately in front of engine. Struck by engine.
	April 14...	Shaughnessy St., Coquitlam	Auto. truck B.C. C-8-244, ran into car twentieth from engine on work extra east.
	May 10...	Pipe Line Road, Mile 112.8 Cascade Subdn., Coquitlam.	Auto. B.C. 47-374, skidded into side of train.
	June 28...	Smythe Street yard crossing, Vancouver.	Auto. B.C. 77-626, struck by yard engine shoving cars over crossing.
<i>Kootenay Division....</i>	June 22...	Farwell and Pine Crossing, Trail.	Auto, licence 43-572, stalled on crossing, and yard engine backed up and struck auto.
	Mar. 19...	Mile 48.8 Victoria Subdn., E. & N. Railway.	Auto. licence 5703, ran into mail car step.
	June 5...	Mile 72.3 Victoria Subdn., E. & N. Railway.	Auto. licence 22-476, ran into side of engine.

STATEMENT OF MISHAPS AT PRIVATE CROSSINGS, WHERE NO PERSONAL INJURY INVOLVED

MANITOBA DISTRICT

Division	Date	Location	Particulars
Winnipeg Terl.....	June 28...	Canada Packers, St. Boniface, Winnipeg Terls.	Engine was going into the stock track and when approaching private crossing a truck containing cattle approaching from the east did not stop and the footboard of engine caught the rear of truck.

BRITISH COLUMBIA DISTRICT

Vancouver Division...	Feb. 18...	Mile 4.92 Westminster Sub-division, near Fraser Mills.	Auto. truck, B.C. C-344, skidded on frosty road and ran into tender of engine.
Kettle Valley Division.	June 7...	Mile 203.3 Princeton Subdn..	Extra West with caboose only, while proceeding west at speed of about 20 miles per hour, struck rear end of logging truck proceeding north over private crossing, leading to sawmill. Private crossing sign at crossing.

SUMMARY OF DANGEROUS PRACTICES

	Number	Per cent
Disregarded watchman's signal.....	11	3.0
Disregarded bell ringing.....	7	2.0
Ran through stop signal.....	24	6.7
Ignored stop signal.....	19	5.3
Ran into train or engine on crossing.....	12	3.4
Attempted to cross, struck by train.....	14	3.9
Passed red flag or red lamp signal.....	33	9.2
Ran into or through lowered gates.....	44	12.3
Passed under gates being lowered.....	17	4.8
Attempted to cross when gates down.....	5	1.4
Regardless of signals, crossed in front of engine.....	16	4.5
Stopped on crossing in front of train.....	4	1.2
Backed or turned on crossing.....	3	0.9
Attempted to cross in front of approaching train.....	130	36.4
Stalled on crossing.....	2	0.5
Nearly ran watchman down.....	4	1.2
Approached crossing too fast.....	2	0.5
Autos collided on crossing.....	2	0.5
Autos stopped foul of track.....	5	1.4
Horse drawn vehicles attempted to cross in front of train and struck.....	3	0.9
	358	100.0

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Judgments, Orders, Regulations, and Rulings

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Application of the City of Galt, Ontario, for an Order providing additional protection to the public at the crossing of Dundas Street by the Montreal to Windsor Branch of the Canadian Pacific Railway.

File No. 9437.620

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the Municipality of the City of Galt, in the province of Ontario, for better protection at the crossing of the Canadian Pacific Railway over Dundas street, in the city of Galt.

This crossing is located practically through the yards of the railway company, a short distance to the east of the passenger station in the city of Galt. The highway crosses nine tracks of the railway company, and the crossing is at present protected by watchmen from 8 a.m. to 11.30 p.m., daily. A serious accident occurred at this crossing on March 25, 1937, in which three persons lost their lives. The accident occurred about 11.45 p.m., a few minutes after the watchman had gone off duty. A train of the Canadian Pacific Railway Company, which was due to arrive and pass over this crossing before 11.30 p.m., was a few minutes late on the night of the accident and there was no watchman at the crossing when the accident happened.

The application was heard at the city of Galt on September 27, 1937, in the presence of counsel for the applicant and for the railway company, and also in the presence of a representative of the Ontario Department of Highways. After hearing what was alleged by the various parties, the Board proceeded to the crossing and in the presence of the interested parties made a full examination on the ground of the situation as it exists.

Dundas street runs northeasterly and southwesterly through what may be described as one of the outlying portions of the city of Galt, and it now forms part of the Ontario Government Highway No. 8. This highway is an important line of travel and forms a direct road between Galt and Hamilton and other places, and at the present time carries a substantial amount of traffic.

In the year 1904 an agreement was reached between the railway company, the city of Galt and the Galt, Preston and Hespeler Electric Railway, in regard to the layout of tracks in the railway yards east of Galt station. Under the

terms of this agreement the city of Galt permitted the railway company to reconstruct certain of its tracks across Brook street (then Rollo street), Bond street and Dundas street, and to construct and operate additional tracks across these highways. It was also provided under this agreement that engines and cars should be permitted to stand upon Brook and Bond streets for a period not exceeding thirty minutes, subject to ratification by the Board of Railway Commissioners. By the said agreement the railway company also agreed to lay out and construct upon the south boundary of the station yard between its passenger station and Dundas street, a 15-foot roadway, and to keep the same open for public travel. By an Order of the Board dated September 22, 1905, the above agreement was ratified. But it seems doubtful whether the 15-foot roadway mentioned in the agreement was ever laid out as a roadway. At the present time this particular 15 feet of roadway is occupied by the track of the Lake Erie & Northern Railway Company. It was not made apparent at the hearing whether the municipality consented or objected to the laying of this track upon the 15-foot roadway. The Lake Erie and Northern Electric Railway now forms part of the system of the Canadian Pacific Railway Company, so the 15-foot roadway has never been used as a roadway by the public and today practically forms part of the railway company's yards in Galt.

A brief history in respect of the protection of this crossing might be interesting. Dundas street in the early days was known as the "Stone Road," and an agitation for the protection of the crossing seems to have commenced after an accident which took place on August 26, 1910, in which one man was injured. After this accident the then town of Galt applied to the Board for an order for protection at this crossing, and Order No. 17654 was made on October 4, 1912, which provided that the crossing should be protected by a watchman from 7 a.m. until 6 p.m. each day. Subsequently, the city of Galt made a further application to the Board for an order to compel the railway company to erect gates for the protection of Dundas street crossing. Upon this application the Board made an order refusing the application for the erection of gates, but directing that Order No. 17654 be amended by extending the hours of the watchman at the crossing from 6.45 a.m. until 6.15 p.m. Another accident occurred at this crossing in which two persons were injured, on December 3, 1934, upon a dark, rainy night, at a time when the watchman was on duty. The question of further protection was again brought to the attention of the Board and by Order No. 51628, dated December 29, 1934, it was provided that the hours of the watchman should be maintained from 6.30 a.m. until 11.30 p.m. This last mentioned order was in force when the last accident occurred at the crossing on March 25, 1937.

The railway company has paid the whole cost in connection with the watchmen, amounting to \$2,306 per annum for 17 hours' service per day. It has been stated by officials of the railway company that the cost of maintaining watchmen for 24 hours per day would be \$3,504 per annum.

A traffic count was taken at the Dundas street crossing by the railway company for a period of 24 hours from 8 a.m., September 23, 1937. This traffic count shows that the *through* traffic over the crossing on that date was 248 trucks and 796 automobiles. No record was kept of other vehicular or of pedestrian traffic. A traffic count was also kept of the *local* city traffic during the same period and this count shows that 210 trucks and 851 private automobiles passed over the crossing. Approximately fifty per cent of the traffic which passed over the crossing was through traffic and fifty per cent local traffic.

There was also submitted a traffic count in respect of Bond street and Brook street. These are the two streets to the west of Dundas street upon which engines and cars are permitted to remain for a period of thirty minutes. This

traffic count gives the following information in regard to Bond street for a 24-hour period from 8 a.m., September 23, to 8 a.m., September 24, 1937:—

Pedestrians 413, of whom 133 are described as school children—	
Bicycles.. . . .	87
Private automobiles.. . . .	129
Wagons and trucks.. . . .	27
C.P.R. engines and trains.. . . .	43
Electric line trains.. . . .	26

and in respect to Brook street:—

Pedestrians 61, of whom 14 are described as school children—	
Bicycles.. . . .	14
Private automobiles.. . . .	22
Wagons and trucks.. . . .	11
Electric line trains.. . . .	27
C.P.R. engines and trains.. . . .	39

The traffic over Bond and Brook streets is purely local traffic, and these streets are, apparently, only minor thoroughfares as compared with the traffic on Dundas street.

After the serious accident which occurred at the Dundas street crossing on March 25 last, the city of Galt made application for further and better protection at this crossing.

After hearing all that was alleged by the various parties interested in the matter, and after a statement by the representative of the Ontario Department of Highways that under the provisions of the Ontario Highway Act the Department of Highways of the Province of Ontario had no power to make grants in respect of a highway situated in an incorporated city, and after an examination of the crossing by the Board, I am satisfied that the Dundas street crossing is a dangerous crossing and requires greater protection than is now afforded by a part-time watchman. A subway would be the best solution of the difficulty at this crossing, but the expense of constructing a subway would be very great and neither the city nor the railway company consider that a subway is feasible at the present time. In my opinion, much greater protection would be afforded by the establishment at this crossing of modern crossing gates operated automatically. The erection of such automatic gates would obviate the necessity of a watchman at this crossing, and would save the railway company \$2,306 per annum, which is at present paid for the part-time watchman.

Since the hearing of the application at Galt a further examination was made of the locus by a Division Engineer of the Board, at which representatives of the city of Galt and of the Engineering Department of the railway were present. The Board's engineer has reported that the operation of automatic gates at the Dundas street crossing is not practicable on account of switching movements which occur with frequency at this crossing. The engineer of the Board has recommended that Bond street and Brook street be closed for highway traffic, and that manually controlled gates be installed at Dundas street to protect the five siding tracks, the main line tracks, and the electric line track, and that switching movements over the wye be protected by the train crew. Upon receipt of this report a communication was sent to the Corporation of the city of Galt requesting the city's further submission in regard to the proposal for the closing of Bond street and Brook street. On October 29, the solicitors of the city of Galt notified the Board that the city council was opposed to the closing of these streets, and also that the city was opposed to making any contribution to the cost of increased protection at Dundas street crossing.

In considering the question of further protection at Dundas street crossing attention must necessarily be given to conditions which exist at the crossings of Bond street and Brook street which lie immediately west of Dundas street. On both of these crossings the railway company is now permitted under the Order of the Board, dated September 22, 1905, to block the crossings with its engines and

cars during shunting movements for periods of not more than thirty minutes at a time. It is alleged that the effect of blocking these crossings is to drive a certain amount of traffic over the Dundas street crossing to the east, or through the subway which already exists just west of the station. Both Bond street and Brook street extend a short distance on the north side of the railway property running up to Samuelson street. There are no buildings on either of these streets between Samuelson street and the railway right-of-way. In the opinion of the Board, the city of Galt should seriously consider taking steps to close those portions of Brook and Bond streets which lie between Samuelson street and the right-of-way. If this were done only slight inconvenience would be suffered by those who use these crossings as they would be able to go through protected crossings at Dundas street or at the subway. The closing of the crossings on Brook street and Bond street would permit of the installation of automatic gates at Dundas street, which would result in a large annual saving in cost of operation, and would add very greatly to the general scheme of protection in respect of the hazards which exist by reason of the location of the railway yards at these crossings. However, as the city of Galt is definitely opposed to closing these streets no more need be said in regard to this phase of the matter at the present time.

In my opinion, an order should be made for the installation of manually operated gates on each side of the Dundas street crossing, and these gates should be operated by a watchman for twenty-four hours each day, and all switching movements over the wye should be protected by the train crew. It has been pointed out by the railway company that the erection of gates on the south side of the right-of-way will involve the question of the 15-foot roadway above mentioned, upon which is now laid an electric railway track. I think the railway company should be ordered to remove the electric railway track from this 15-foot roadway, and that the same should be connected with the southerly Canadian Pacific passing track east of Dundas street, and that all electric trains should operate over such southerly passing track. This work should be performed at the expense of the railway company. The railway company now pays the total cost of the protection heretofore afforded at the Dundas street crossing amounting to \$2,306 per annum for 17 hours' service per day, and it has been estimated that the increased cost of an operator for 24 hours per day will be \$3,504, or an annual increase of \$1,200. I think that the increased cost of maintenance of the protection at this crossing should be borne by both the railway company and the city of Galt. I think the city of Galt should be ordered to contribute \$500 per annum of this increased cost, and that the balance thereof should be paid by the railway company. It is estimated that the cost of installing the above gates will be from \$5,500 to \$6,000, and I would recommend that 70 per cent of this cost be paid out of Parliamentary Vote No. 357, and that the balance of the cost of erecting the gates be paid by the railway company.

An Order of the Board should be drawn embracing the above terms.

November 2, 1937.

The Deputy Chief Commissioner and Commissioner Stoneman concurred.

ORDER NO. 55227

In the matter of the application of the City of Galt, in the Province of Ontario, for an Order requiring additional protection to be provided at the crossing of Dundas Street by the Canadian Pacific Railway.

File No. 9437.620

WEDNESDAY, the 24th day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Galt, September 27, 1937, in the presence of Counsel for and representatives of the Applicant, the Department of Highways for the Province of Ontario, and the Canadian Pacific Railway Company, and what was alleged; and upon an examination by the Board of the locus in quo, and the recommendation of the Division Engineer of the Board—

It is ordered:

1. That the Canadian Pacific Railway Company be, and it is hereby, directed to erect manually operated gates on each side of the crossing of Dundas Street, Galt, Ontario, which shall be operated by watchmen for twenty-four hours each day, in lieu of the present protection by watchmen from 6.30 a.m. to 11.30 p.m. daily, under Order No. 51628, dated December 29, 1934.

2. That all switching movements over the wye tracks be protected by the train crew.

3. That the Canadian Pacific Railway Company remove the electric track from the fifteen-foot roadway on the south boundary of its station yard, and connect such track with its southerly passing track east of Dundas Street; all electric trains to operate over the said southerly passing track.

4. That, with the approval of the Governor in Council by Order in Council P.C. 2854, dated November 18, 1937, seventy per cent of the cost of erecting the said gates, not exceeding, however, the sum of \$4,200, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, special Supplementary Estimates 1937-38; and that the remainder of such cost be paid by the Canadian Pacific Railway Company.

5. That the City of Galt contribute the sum of \$500 per annum toward the cost of maintaining the said gates, the Canadian Pacific Railway Company to pay the remainder of such maintenance cost.

H. GUTHRIE,

Chief Commissioner.

Application of the Town of La Tuque, Que., for an Order directing the Canadian National Railways to construct a new station building at La Tuque.

File No. 29406

JUDGMENT

GARCEAU, DEPUTY CHIEF COMMISSIONER:

Application for permission to close the Quebec and Lake St. John Railway freight and passenger station in the town of La Tuque, Quebec, was made by the Canadian National Railways on June 7, 1919.

Our inspector, reporting on the advisability of granting that application, stated:—

“While I think there are no great objections to closing to the public the station and freight shed of the Quebec and Lake St. John Railway

in the town of La Tuque, still it may occasion difficulty in handling the passenger traffic at the Transcontinental Railway Station as this is a one-storey building measuring 50 ft. x 25 ft. with two small waiting rooms, a part of the ladies' waiting room has been taken to provide additional accommodation for express, baggage and mail.

La Tuque has a population of about five thousand (5,000) inhabitants and the traffic is heavy. While at La Tuque I met the mayor, Mr. Roy, and the Alderman Hardy and both are of the opinion that while they find no fault in transferring all business to one station, it might not offer adequate facilities to the travelling public to and from La Tuque and I wish to suggest that this matter be taken up with the railway authorities so as to provide proper facilities in time for the winter season."

Since the closing of the station of the Quebec and Lake St. John Railway, the station building on the Transcontinental line has been used and this is the building concerned in this application.

On November 13, 1935, the Municipal Council of the town of La Tuque forwarded to the Board an application for an order directing the Canadian National Railways to construct a new station at La Tuque, P.Q., which read, in part, as follows:—

"WHEREAS the members of this Council have examined the report of inspection prepared by Dr. E. Frenette, Medical Officer of the Provincial Bureau of Health for the County of Laviolette, respecting the sanitary conditions of the C.N.R. station building at La Tuque when on a tour of inspection here on the 23rd October, 1935, and with regard to the Order issued by Dr. Alphonse Lessard, Medical director of the Provincial Bureau of Health, in connection therewith.

WHEREAS the sanitary conditions of the station building at La Tuque can no longer be tolerated.

WHEREAS the population of this town and the travellers who are visiting us have already tolerated those conditions much too long.

WHEREAS the station building at La Tuque, which comprises the telegraph and express offices of the Canadian Express, is far from meeting the needs and the requirements of a town of such an importance as La Tuque, and that the construction of a new station building has been urgently required for a long time.

WHEREFORE, this Council earnestly request the C.N.R. authorities to kindly build at La Tuque a new modern station building provided with all the necessary accommodation or facilities and worthy of this town since the money required to improve the defective existing conditions of the station building would not satisfy the public and would be uselessly spent."

On April 4, 1936, Mr. Rand, K.C., Commission Counsel, C.N.Rys., submitted to the Board plan C-8308 showing alterations to be made to the station building at La Tuque, but the proposed improvements did not meet the approval of the municipality, for the following reasons (letter April 30, 1936):—

- "1. The length of the station would not be in proportion to its height.
2. The cubic air space, inside the different rooms, would not meet with the requirements of the Board of Health.
3. The station as it is, is too close to the railway tracks.
4. Even if the station were raised two feet on its base, it would even then be too long in comparison to its height and too low with regard to the street level.

5. The entrance to the express and baggage rooms could not be at the same level as the floor of the waiting rooms if the station were raised two feet, in order to allow the trucks to be driven into the express and baggage rooms.

6. The expense of such proposed repairs and alterations is not justified in view of the fact that they would not improve present conditions.

7. As the traffic at this point is heavy, especially during times of excursions, of which there are many and which are patronized by a great many; it is dangerous during those periods to circulate about the station.

8. The present station, improved and repaired as proposed, would not be a fireproof building.

9. The proposed improvements to the present station, including the enlargement and repairs, are contrary to the stipulations contained in the building regulations of this town and consequently the Municipal Council would be forced to refuse a building permit for such work."

This case was heard in Quebec on the 11th January, 1937; it was then decided that it should remain in abeyance for two months. Evidence (Vol. 637), p. 228, reads as follows:—

"The CHIEF COMMISSIONER: Do you think there is any hope of reaching a satisfactory arrangement by postponing this to see what the railway will do in the future? They cannot go to work at the present.

Mr. DARVEAU: Well, there is nothing to lose for either side. My instructions do not go that far. It would be up to the authorities to see what can be done, and more especially what conditions will be. We all hope that conditions will improve, and the railway is interested in having as nice stations as possible. On the other hand the public has been watching expenses very closely. In this case we thought we were serving the interests of all to the best advantage. While we thought we were perhaps not giving them all they were entitled to we were doing our best. I do not think that leaving the matter in abeyance for a year will hurt any of the parties.

The CHIEF COMMISSIONER: Suppose we leave it in abeyance for a month? If the railway can make provision for it next year I think the municipality would be well advised to wait. But if the railway say, We will not commit ourselves in any way, I think some expenditure should be made at the present time. But that looks to me like a makeshift, postponing a situation which you are bound to meet in the future. This may be a difficult time to finance a structure of this kind, but if there was a reasonable hope held out by the railway that next year they can put a certain amount in their estimates to provide for a new station I think the municipality would be well advised to wait until next year.

The DEPUTY CHIEF: Of course you cannot commit yourself. You make a report and see what the opinion of the Board is. We do not say we will order a station, but the public are not satisfied. You study the proposition and see what you can do.

Mr. DARVEAU: The matter would be adjourned for a certain time?

The CHIEF COMMISSIONER: Say a month or two months, so that if the work is to go on it may go on this spring.

Mr. DARVEAU: Then at the end of two months we will tell you what the railway can do."

Another hearing in this matter took place on the 8th May, 1937, at La Tuque, at which time the Board also had the opportunity of examining the station.

La Tuque is a thriving and clean industrial centre, with a population of about 8,000. Its streets are paved and kept clean and its public buildings, including the town hall, fire hall, collegiate, industrial school, convent, hospital, and church, are spacious, airy, and bright. There is a city by-law which requires all property owners within the limits of fire district "A" who wish to build or repair a building to have at least a 4-inch thickness of bricks in the wall.

The station serves not only the population of the town of La Tuque but is the distributing centre for forest operations for the surrounding area of at least 75 to 100 miles.

The station is a one-storey building, that was built about twenty-five years ago when the population was between 2,000 and 3,000.

The evidence has shown that it is too small to give adequate accommodation for express and passenger traffic; the ceiling is very low and the ventilation poor; the unhygienic conditions were condemned by the Provincial Department of Health—(Dr. Frenette's report, October 28, 1935, filed as Exhibit No. 1); the floor is lower than street level.

With the proposed improvements, which are estimated to cost about \$15,000, the railway company will connect the lavatories with the sewer system, install central heating facilities, enlarge the ladies' waiting room, making it into a ladies' and general waiting room, leaving the present waiting room as it is to be used as a smoking room. It is also intended to raise the building about 1½ foot and to stucco the outside.

While these improvements will remove some of the objectionable features of the present situation, the space reserved for express business will be very small, probably too small; no proper accommodation will be provided for the handling of foodstuffs and, more particularly, of meats; as the ceiling will remain as at present, no air space will be added for better ventilation; the floor, especially for the express department and the smoking room, should not be made of wood but of terrazzo or some similar material.

The passenger accommodation should be based on the needs of the public and, in this case, due to the fact that most trains are night trains and owing to the distance that most passengers have to come from to get to the station, it might also be advisable to have some space in the station left for a restaurant to sell sandwiches, soft drinks, tobacco and cigarettes at night.

The maximum number of passengers for any one train is given as forty, barring special low-fare excursions or special movements of lumberjacks to the bush. The total passenger revenue for 1935 was \$47,163. For the same year, the express figures amount to \$24,143 and the total earnings to \$1,139,000.

This heavy passenger and express traffic shows conclusively that there is need for a better accommodation as far as space and sanitary conditions are concerned.

The platform, on account of the semaphore, is rather narrow and constitutes a danger to the public.

The plan submitted does not meet the requirements of to-day. In my opinion, the works mentioned would only be a makeshift, postponing a situation which the railway is bound to meet in the near future.

However, the Board has not the jurisdiction to order the Canadian National Railways to build a new station but it can insure that the station offer good and sufficient accommodation for the public and the facilities necessary for traffic.

The proposed improvements and changes are not sufficient to insure the minimum accommodation for the public, its health and safety.

In addition to the improvements described by the railway company in its submissions and plan, I would recommend:—

- (a) that the station be moved back about 6 feet in order to facilitate drainage and to widen the platform;
- (b) that the floor of the express room and of the general waiting or smoking room be made of terrazzo or some other similar material.

OTTAWA, November 4, 1937.

Commissioners Stoneman and Stone concurred.

(Traduction)

Requête de la Ville de La Tuque, P.Q., demandant qu'une ordonnance soit rendue enjoignant à la compagnie des chemins de fer Nationaux du Canada de construire une nouvelle gare à la Tuque.

Dossier N° 29406

JUGEMENT

GARCEAU, commissaire en chef suppléant:

La requête pour obtenir la permission de fermer la gare des voyageurs et le hangar des marchandises du chemin de fer Québec & Lac St-Jean dans la ville de La Tuque, P.Q., fut produite par la compagnie des chemins de fer Nationaux du Canada le 7 juin 1919.

Notre inspecteur, dans son rapport sur les avantages qu'il y aurait d'accorder cette requête, déclare:

“ Bien que je ne croie pas qu'on puisse fortement s'objecter à la fermeture au public de la gare des voyageurs et du hangar des marchandises du chemin de fer Québec & Lac St-Jean dans la ville de La Tuque, cela peut encore présenter des inconvénients par rapport au trafic des voyageurs à la gare du chemin de fer Transcontinental vu que c'est une bâtisse d'un seul étage mesurant 50 pieds par 25 pieds, avec deux petites salles d'attente, une partie de la salle des dames ayant été prise pour pourvoir à plus d'espace pour les messageries, les bagages et les matières postales.

La Tuque a une population d'environ 5,000 habitants, et le trafic y est considérable. Pendant que j'étais à La Tuque j'ai rencontré le maire Roy et l'échevin Hardy, et tous les deux sont d'avis que bien qu'ils ne trouvent pas à redire sur la concentration de toutes les affaires dans une seule gare, cela pourrait bien ne pas offrir des facilités adéquates au public voyageur à destination et en provenance de La Tuque, et je désire suggérer que cette question soit soumise aux autorités du chemin de fer pour qu'il soit pourvu en temps à des facilités convenables pour la saison d'hiver.”

Depuis la fermeture de la gare du chemin de fer Québec & Lac St-Jean, on s'est servi de la gare du chemin de fer Transcontinental qui est celle dont il s'agit dans la présente requête.

Le 13 novembre 1935, le conseil municipal de la ville de La Tuque adressa à la Commission une requête demandant qu'une ordonnance soit rendue enjoignant à la compagnie des chemins de fer Nationaux du Canada de construire une nouvelle gare à La Tuque; cette requête se lit en partie comme suit:

“ ATTENDU que les membres de ce Conseil ont pris connaissance du rapport d'inspection fait par le Dr. E. Frénette, officier médical de l'Unité sanitaire, comté Laviolette, concernant les conditions hygiéni-

ques de la gare du Canadien National à La Tuque, lors de sa visite en date du 23 octobre 1935 et de l'ordonnance émise à ce sujet par le Dr. Alphonse Lessard, directeur du service provincial d'hygiène;

ATTENDU que les conditions d'insalubrité de la gare de La Tuque ne peuvent être tolérées plus longtemps;

ATTENDU que la population de cette ville, de même que les voyageurs qui nous visitent, ont toléré déjà trop longtemps cet état de choses;

ATTENDU que la bâtisse de la gare à La Tuque, qui comprend en même temps le bureau du télégraphe et les bureaux de messageries de la Canadian Express, est loin de répondre aux exigences et aux besoins d'une ville de l'importance de La Tuque, et que la construction d'un nouvel édifice s'impose depuis longtemps;

QU'EN CONSÉQUENCE ce conseil prie instamment les autorités du Canadian National Railway de vouloir bien construire à La Tuque un édifice moderne renfermant toutes les accommodations nécessaires et digne de cette ville, vu que les sommes nécessaires pour remédier aux défauts actuelles de la gare ne sauraient donner satisfaction et seraient dépensées ainsi inutilement."

Le 4 avril 1936, M. Rand, C.R., l'avocat-conseil du C.N.R. soumit à la Commission le plan C-8308 montrant les changements devant être effectués à la gare de La Tuque, mais la municipalité refusa d'approuver les améliorations projetées pour les raisons suivantes (lettre du 30 avril 1936):

"1. La longueur de la station serait trop grande par rapport à sa hauteur;

2. Le cubage d'air à l'intérieur des appartements ne rencontrerait pas les exigences du bureau d'hygiène;

3. La station se trouve située ainsi trop près de la voie ferrée;

4. Même si cette gare était élevée de deux pieds sur sa base, elle serait quand même trop longue par rapport à sa hauteur et trop basse par rapport au niveau de la rue;

5. L'accès du département de bagage et de l'express ne pourrait être du même niveau que le plancher des salles d'attente une fois que la gare serait élevée de 2 pieds pour permettre d'entrer les camions de marchandises dans les salles de bagage ou d'express;

6. L'estimé de telles réparations et améliorations à faire ne justifie pas une telle dépense vu que cela n'aurait pas pour effet d'améliorer la situation actuelle;

7. Comme il se fait un trafic considérable ici surtout en temps des excursions qui sont d'ailleurs nombreuses et auxquelles prennent part un très grand nombre de personnes, il est dangereux en ces temps de circuler à la gare ou près d'icelle lors de tels événements;

8. La gare actuelle telle qu'améliorée et réparée ne serait pas un édifice à l'épreuve du feu;

9. Les améliorations projetées à la gare actuelle comprenant agrandissement et réparations, sont contraires aux stipulations contenues dans le règlement de construction de cette ville, et par conséquent le conseil municipal se verrait dans l'obligation de refuser un permis de réparations et d'agrandissement à la gare actuelle."

Cette cause fut entendue à Québec le 11 janvier 1937; il fut alors décidé qu'elle devrait rester en suspens durant deux mois. La preuve (Vol. 637, p. 228,) se lit comme suit:

“LE COMMISSAIRE EN CHEF:—Pensez-vous qu'on pourrait en venir à un arrangement satisfaisant en ajournant la cause pour savoir ce que le chemin de fer se propose de faire plus tard? Il ne peut pas entreprendre les travaux maintenant.

M. DARVEAU:—Bien, il n'y a rien à perdre des deux côtés. Mes instructions ne vont pas jusque là. Il appartiendrait aux autorités de se rendre compte de ce qui peut être fait et surtout de ce qu'en seront les conditions. Nous espérons tous que les conditions s'amélioreront, et le chemin de fer est intéressé à avoir des gares aussi convenables que possible. D'un autre côté, le public a surveillé les dépenses de très près. Dans le cas présent, nous avons cru servir les intérêts de tous avec le plus d'avantages possibles. Bien que nous pensions que peut-être nous ne leur donnions pas tout ce à quoi ils avaient droit, nous faisons de notre mieux. Je ne crois pas que le fait de laisser l'affaire en suspens durant un an va être préjudiciable à aucune des parties.

LE COMMISSAIRE EN CHEF:—Supposons que nous la laissions en suspens durant un mois. Si le chemin de fer peut disposer d'une somme pour sa gare l'an prochain, je crois que la municipalité serait bien avisée d'attendre. Mais si le chemin de fer dit: nous ne pouvons pas nous engager de cette façon, je crois que certaines dépenses devraient être faites maintenant. Mais le fait de retarder la solution d'une situation à laquelle vous devrez faire face plus tard me paraît être un expédient. Il peut être difficile dans le moment de financer une construction de ce genre, mais si le chemin de fer entrevoyait en quelque sorte que l'an prochain il serait en mesure de mettre dans ses estimés un certain montant pour la construction d'une nouvelle gare, je crois que la municipalité serait bien avisée d'attendre jusqu'à l'an prochain.

LE COMMISSAIRE EN CHEF SUPPLÉANT:—Naturellement, vous ne pouvez pas vous engager vous-même. Vous faites un rapport et vous vous rendez compte de ce qu'est l'opinion de la Commission. Nous ne disons pas que nous allons ordonner la construction d'une gare, mais que le public n'est pas satisfait. A vous de mettre le projet à l'étude et de voir ce que vous pouvez faire.

M. DARVEAU:—L'affaire serait laissée en suspens durant un certain temps?

LE COMMISSAIRE EN CHEF:—Disons un mois ou deux, afin que, si les travaux doivent être exécutés, ils puissent l'être ce printemps.

M. DARVEAU:—Alors, à l'expiration de deux mois, nous vous dirons ce que le chemin de fer peut faire.”

Il y eut une autre audition en cette affaire à La Tuque le 8 mai 1937 alors que la Commission eut l'occasion de faire un examen de la gare.

La Tuque est un centre industriel progressif et bien entretenu ayant une population d'environ 8,000 âmes. Ses rues sont pavées et bien entretenues, et ses édifices publics, y compris l'hôtel de Ville, la station de pompes, l'école supérieure, l'école industrielle, le couvent, l'hôpital et l'église, sont vastes, bien aérés et éclairés. Il y a un règlement de la ville qui oblige tous les propriétaires des maisons situés dans les limites du district d'incendie “A”, qui veulent construire ou réparer une maison, de voir à ce que les murs aient une épaisseur de brique d'au moins quatre pouces.

La gare ne dessert pas seulement la population de la ville de La Tuque, mais est le centre de distribution des opérations forestières pour la région avoisinante qui comprend au moins 75 à 100 milles.

La gare actuelle est une bâtisse d'un seul étage qui fut construite il y a environ vingt-cinq ans alors que la population était de 2,000 à 3,000 habitants.

La preuve a démontré qu'elle est trop petite pour accommoder suffisamment les voyageurs et les messageries; le plafond en est très bas et la ventilation mauvaise; les conditions insalubres furent condamnées par le Bureau de Santé de la Province—(Rapport du Dr. Frénette du 28 octobre 1935 produit comme exhibit N° 1); le plancher est plus bas que le niveau de la rue.

Avec les améliorations que l'on veut faire au coût estimatif d'environ \$15,000, la compagnie de chemin de fer raccordera les cabinets de toilette avec le système d'égouts, installera un système de chauffage central, agrandira la salle d'attente des dames en la convertissant en une salle d'attente pour les dames et le public en général, laissant telle qu'elle est la salle d'attente actuelle pour servir de fumoir. C'est aussi l'intention de hausser la bâtisse d'environ un pied et demi et de l'enduire de stuc à l'extérieur.

Bien que ces améliorations fassent disparaître certains inconvénients dont on se plaint, l'espace réservé aux messageries sera très restreint, et probablement trop; il n'y aura pas d'espace convenable pour la manutention des vivres, et surtout des viandes; vu que le plafond restera tel qu'il est, il n'y aura pas plus d'espace pour une meilleure ventilation; le plancher, surtout pour le département des messageries et le fumoir, ne devrait pas être fait en bois mais en "terrazzo" ou en tout autre matériel semblable.

La commodité des voyageurs devrait être basée sur les besoins du public, et dans le cas présent, vu que la plupart des trains sont des trains de nuit et vu la distance que la plupart des voyageurs sont obligés de parcourir pour venir à la gare, il pourrait être avantageux aussi de réserver un espace pour un restaurant qui vendrait des sandwiches, des liqueurs douces, du tabac et des cigarettes la nuit.

Le nombre maximum de voyageurs par train se chiffre à 40, sauf dans les cas d'excursions spéciales à prix réduits ou de transports spéciaux d'hommes de chantier vers la forêt. Le revenu total du trafic des voyageurs pour l'année 1935 fut de \$47,163. Pour la même année, les recettes provenant des messageries se chiffrent à \$24,143, et les recettes totales à \$1,139,000.

Ce trafic considérable des voyageurs et des messageries indique d'une manière concluante que de plus grandes facilités s'imposent pour ce qui concerne l'espace et les conditions d'hygiène.

Le quai, à cause du sémaphore, est plutôt étroit et constitue un danger pour le public.

Le plan qu'on a soumis ne répond pas aux besoins du jour. A mon avis, les travaux qu'on a mentionnés ne seraient qu'un expédient pour retarder la solution d'une situation à laquelle le chemin de fer devra faire face dans un avenir rapproché.

Quoi qu'il en soit, la Commission n'a pas juridiction pour ordonner à la compagnie des chemins de fer Nationaux du Canada de construire une nouvelle gare, mais elle peut voir à ce que la gare offre de bonnes et suffisantes commodités au public et les facilités nécessaires pour le trafic.

Les améliorations et changements projetés ne sont pas suffisants pour procurer au public les commodités minima pour sa santé et sa sécurité.

Outre les améliorations mentionnées par la compagnie de chemin de fer dans ses observations et indiquées sur le plan qu'elle a produit, je recommanderais:

(a) que la gare soit reculée d'environ six pieds pour faciliter le drainage et pour élargir le quai;

(b) que le plancher de la chambre des messageries et de la salle d'attente ou fumoir soit fait en "terrazzo" ou en tout autre matériel semblable.

OTTAWA, le 4 novembre 1937.

Les Commissaires Stoneman et Stone se sont ralliés au jugement ci-dessus.

ORDER No. 55246

In the matter of the application of the Town of La Tuque, in the Province of Quebec, hereinafter called the "Applicant," for an Order directing the Canadian National Railways to construct a new station building at La Tuque.

File No. 29406

SATURDAY, the 27th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner*.
 F. N. GARCEAU, K.C., *Deputy Chief Commissioner*.
 J. A. STONEMAN, *Commissioner*.
 G. A. STONE, *Commissioner*.

Upon hearing the application at the sittings of the Board held at Quebec, January 11, 1937, and at La Tuque, May 5, 1937, in the presence of Counsel for and representatives of the Applicant and the Railway Company, and what was alleged; and upon reading the written submissions filed—

It is ordered: That plan No. 404 dated January 7, 1937, and plan dated January 18, 1936, showing location and proposed extension to the station building at La Tuque, Quebec, on file with the Board under file No. 29406, be, and they are hereby, approved, with the following additional, namely:—

- (a) the Canadian National Railways to move the station back about six feet in order to facilitate drainage, and to widen the platform;
- (b) the floor of the express room and of the general waiting room, or smoking room, to be made of terrazzo or some similar material.

H. GUTHRIE,
Chief Commissioner.

Application of the National Federation of Canadian University Students for lower passenger fares for travelling groups of university students engaged in university competition in Western Canada.

File No. 30969.23

Heard before the Board at Edmonton, Alta., November 5, 1937

ORAL JUDGMENT DELIVERED BY COMMISSIONER STONEMAN

COMMISSIONER STONEMAN:—

The railway companies have established special reduced excursion fares, described as round trip party fares, on the basis set out in the submission of the Canadian Passenger Association dated September 25, 1937, copy of which was forwarded to the applicant.

These party fares represent a very substantial reduction from the regular passenger fares. This application asks: first, that there should be a further reduction made in the present party fares and, second, that there should be a reduction in the number of persons required to travel together on the going journey in order to obtain such fares. For example, the first special party fare below the regular passenger rate covers parties of ten to fourteen adults, with still lower fares for parties of fifteen to twenty-four and parties of twenty-five or more, and it is pointed out in the application that a debating team may be comprised of but two or three students. We can quite appreciate the reasons advanced in support of the application. However, the special character of these fares and the provisions of the Railway Act and previous decisions

of the Board with respect thereto must be controlling in so far as any direction by the Board is concerned.

In the first place, these reduced rates are governed by Section 345 of the Railway Act, which is a permissive section stating: "Nothing in this Act shall be construed to prevent . . . the issuing of mileage excursion, or commutation, passenger tickets." Other matters are also covered by this section which are not relevant here.

In the City of Toronto and the Town of Brampton vs. the Grand Trunk and Canadian Pacific Railway Companies, 11 C.R.C., p. 370, dealing with commutation fares, the Chief Commissioner of the Board, in his judgment, stated:—

"So that, as I understand the position now, if a railway company exercises the discretion given to it under Section 341 (now Section 345), that discretion remains uncontrolled and should not be interfered with by the Board, unless there is some affirmative evidence that it results

in unjust or unfair discrimination between persons or localities."

In the Canadian Fraternal Association vs. the Canadian Passenger Association, 13 C.R.C., p. 178, there was involved the question of a reduction in the number of persons required by the companies' regulation in order to be entitled to reduced fares and the Board there stated:—

"The answer is that the statute does not give us any authority to do anything of the kind. The railway companies have the right, if they like, to apply the regular return trip fares to any number of persons travelling from the same place to the same place, or as these people do to these gatherings."

In Roy vs. the Canadian Passenger Association, 17 C.R.C., p. 320, there was an application to the Board to direct special fares for farmers desiring to attend agricultural conventions, conferences and exhibitions. In the judgment delivered in that case, the Board quoted the section of the Act to which reference has just been made and said:—

"The result is that special rates may be made to and from industrial fairs and expositions which otherwise would infringe the provisions of the Act relating to an equality of charge.

The practice of the Board is well-settled in dealing with such rates. They have uniformly been held to be rates which may be put into effect by railway companies or not. They are rates which may be looked upon as experimental, perhaps justified in a business sense owing to the large traffic that they might bring, or perhaps rates which apart from any business motive and in the absence of any proper return are rates that the companies from motives of policy desire to adopt.

Under the Act, however, they are not rates with which the Board is directly concerned. The Board's jurisdiction in dealing with them rests merely on the ground of discrimination.

Under the Act, it is, of course, impossible for the Board to order special privileges for any one class. To do so would be to directly violate the provisions of the Act. It is not open to the Board to consider whether a farmer or a doctor, on the one hand, should or should not travel cheaper than a mechanic or a lawyer on the other.

The application must be dismissed."

In Volume 13, Board's Judgments and Orders, p. 191, the application of Queen's University, Kingston, in the matter of excursion fares in connection with annual football games, was refused. Volume 19, Board's Judgments and Orders, p. 280, covers an application of the Winnipeg Board of Trade for an Order directing the railway companies to provide passenger excursion rates from Eastern to Western Canada, etc., and was refused.

In all of these cases, the position taken by the Board was that, under the provisions of Section 345 of the Railway Act, the railways are given discretion as to certain things they may do and that the question of excursion fares is something in connection with which the Board has no initial discretion or jurisdiction. The Board's powers are confined to a consideration of any alleged unjust discrimination or undue preference which may result from concessions made by the railway companies under Section 345 and, if found to exist, the Board may direct removal of the unjust discrimination. That situation is not present in this application.

For the reasons given, this application must be refused.

Commissioner Stone concurred.

ORDER No. 55224

In the matter of the application of the National Federation of Canadian University Students for lower passenger fares for travelling groups of university students engaged in university competition in Western Canada.

File No. 30969.23

MONDAY, the 22nd day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner*.

J. A. STONEMAN, *Commissioner*.

G. A. STONE, *Commissioner*.

Upon hearing the application at the sittings of the Board held in Edmonton, November 5, 1937, in the presence of representatives of and Counsel for the National Federation of Canadian University Students, the Canadian Passenger Association, the Canadian Pacific Railway Company, and the Canadian National Railways, and what was alleged—

It is ordered: That the application be, and it is hereby, refused.

H. GUTHRIE,
Chief Commissioner.

Application of Chisholm Saw Mills, Limited, Edmonton, Alta., in re rates on lumber from Alberta points to Chicago, Ill., and points in the vicinity thereof.

File No. 26615.82

Heard before the Board at Edmonton, Alta., November 5, 1937.

ORAL JUDGMENT DELIVERED BY COMMISSIONER STONEMAN

COMMISSIONER STONEMAN: Gentlemen, we have discussed this matter, and my brother Commissioner agrees with me that we should dispose of it now.

This case was first heard on the 30th of June and the 1st of July, 1926, at Edmonton, and again on the 14th of June, 1928, at Edmonton. The Judgment which was issued on November 30, 1928, was delivered by the then Chief Commissioner and concurred in by the Assistant Chief Commissioner, the Deputy Chief and Commissioners Lawrence and Norris.

Taking into consideration what has been said to-day in support of the application, and having in mind the previous record and Judgment, we are agreed that there has not been sufficient offered in the way of evidence that could be deemed to be new or material to justify a rehearing of this matter.

The application is, therefore, dismissed, and it will be unnecessary to hear the matter in Winnipeg.

ORDER No. 55231

In the matter of the Order of the Board No. 41893, dated December 7, 1928, dismissing the complaint of the Chisholm Saw Mills, Limited, of Edmonton, Alberta, regarding rates on lumber from Chisholm, Alberta, to United States points;

And in the matter of the application on behalf of the said Chisholm Saw Mills, Limited, for a rehearing of the above complaint.

File No. 26615.82

TUESDAY, the 23rd day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held at Edmonton, November 5, 1937, in the presence of Counsel for and representatives of the Chisholm Saw Mills, Limited, the Pas Lumber Company, Limited, the Canadian National Railways, Northern Alberta Railways, and Canadian Pacific Railway Company, and what was alleged—

It is ordered: That the application for a rehearing of the complaint of the Chisholm Saw Mills, Limited, regarding rates on lumber from Alberta to United States points be, and it is hereby, refused.

H. GUTHRIE,

Chief Commissioner.

Application of John Fitzgibbon, et al, for an Order directing the Canadian National Railways to repair and maintain overhead farm crossing at Lot 27, Concession D, Township of Scarboro, County of York, Ontario, or, in the alternative, to make compensation in lieu of such maintenance.

(File No. 3878.356)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by John Fitzgibbon, and others, who claim to be the owners of Lot 27, Concession D, in the Township of Scarboro in the County of York, for an order directing the Canadian National Railways to repair and maintain an overhead farm crossing where the company's railway intersects the above mentioned lot, or, in the alternative, to make compensation to the applicants in lieu of maintaining the said overhead crossing. The application was heard at Toronto on the 28th day of September, 1937, in the presence of counsel for the applicants and also for the Canadian National Railways.

In 1911 the Canadian Northern Ontario Railway Company was constructed diagonally across the above mentioned lot and cuts the property approximately into two equal parts. In the Spring of the year 1911 the railway company took proceedings to expropriate a right of way through this property, and while the said proceedings were still pending the railway made an application to the Board for permission to construct an overhead farm crossing over the proposed right of way in accordance with plans which were then filed with the Board. The owner of the property at that date submitted in opposition to this application that the application "should not prejudicially affect a pending arbitration between the parties for lands taken by the company and for compensation," and in reply to this submission the railway company submitted that "the application was made for the purpose of the mitigation of damages in the arbitration then pending between the parties." The application for the construction of an

overhead farm crossing was heard at Toronto on the 24th April, 1911, and an order was made, No. 13564, by which the railway company was authorized to construct an overhead farm crossing over its right of way upon this lot. By an arbitrator's award, dated 28th October, 1911, the owners of the above land were awarded the sum of \$3,312.50 for damages for the lands so taken and for damages to the residue of the said lands caused by severance or otherwise, and small amounts were also awarded to the owners in respect of damages to other lands which are not involved in the present application.

The railway company duly constructed an overhead crossing upon the said lands in the year 1911 and continued to maintain the same until the year 1935, since which date the crossing has been out of repair and unfit for use.

In the year 1926 the Canadian National Railways, which had subsequently become the owners of the railway, decided to abandon the line running through the above property, and in the year 1926 the tracks and equipment were removed and there has been no operation upon the said line since the above mentioned date, although down until the year 1936 the railway company continued to keep the overhead bridge in repair.

Some negotiations seem to have taken place between the railway company and the applicants in December, 1935, as to the said overhead bridge, but nothing definite seems to have resulted from these negotiations. However, the railway company proceeded to make a level crossing over the right of way to enable the applicants to cross over the deep cut which occurred where the railway passed through this farm. This level crossing was constructed by the railway at its own expense but the applicants allege that this crossing is unfit for farm purposes and inconvenient in many respects and causes considerable loss of time and otherwise in the operation of the farm. The applicants allege that the new crossing has been constructed at a point where there is low land upon the farm and that at wet seasons they will not be able to use it at all. They also allege that it will require drainage and that it will likely require constant repair to make it of any service upon the farm. It was also stated by the applicants that it would cost \$750.00 to construct a level crossing at the location of the overhead crossing which has heretofore existed. At that point the fill is about 20 feet in depth whereas at the lower end of the property where the new crossing has been constructed it is only some 3 or 4 feet in depth. The applicants also claim that since abandonment of the line the railway company had not fenced either end of the railway property and that they are consequently exposed to trespassers and cattle straying upon the land. However, in respect of this objection counsel for the railway company offered not only to fence both ends of the right of way but also to convey the actual right of way to the applicants, but the applicants stated that they would not accept a conveyance of the right of way and intimated that it would be of no benefit as farm property.

At the conclusion of the hearing it was suggested that the parties should meet and see if some arrangement could be arrived at which would prove satisfactory to all parties concerned, and it was also intimated that one of the Engineers of the Board would make a further examination of the new crossing during a period of wet weather and report thereon.

On 21st October Division Engineer Kydd made a subsequent report to the Board and copies of this report were forwarded to the solicitors of the applicants and also of the railway. In this report the Division Engineer states that he made an inspection of the crossing on 20th October, 1937, in the presence of counsel for the applicants and for the railway and of the applicant John Fitzgibbon himself. The Engineer states that previous to his visiting the property on 20th October, and particularly between October 4th and 8th, there had been very heavy rains, but on 20th October he found the land at the new crossing was hard and dry. He states also in his report that the land at the new crossing is not low land; that the crossing is on a hillside, and that the land slopes past the crossing at 2.4 feet per 100 feet, which is a fairly heavy slope;

that the railway cut at the new crossing is 6 feet lower than the land, and that the crossing is built up $4\frac{1}{2}$ feet higher than the bottom of the cut. In the opinion of the Division Engineer, as expressed in his report, the new crossing is a good and sufficient crossing for farm purposes.

Since the above report was furnished to the parties the Board has heard nothing from them beyond an acknowledgment of receipt of same. It is therefore evident that the negotiations which were to take place between the parties after the hearing have not resulted in any amicable agreement, so that it has become necessary for the Board to render a decision in respect of the application.

I do not consider that this is a case in which the railway should be asked to maintain the old overhead crossing. I think the railway company has acted reasonably in the construction of the new crossing, which I am satisfied will prove satisfactory for farm purposes; but I think the railway should undertake, without further delay, to fence the right of way where the same enters and leaves the applicants' farm, in order to prevent trespassing and straying cattle.

It is to be noted that in the present case the railway line has been actually abandoned, rails, ties and equipment have all been removed, and there has been no railway operation of any kind over this right of way for the past ten years. While in the present case it may not be necessary to decide the point, I may state that in my view of the matter the former railway right of way has now become private property owned by the railway company. Railway operation upon it has been completely abandoned and this abandonment has been confirmed by Order of the Board. Further railway operation over this old right of way cannot take place in the future by any act of the railway company without its first obtaining authority from the Board for such purpose. I think the right of way must now be treated as real estate owned by the railway subject to all municipal and provincial laws which may obtain in the locality where the land lies. The applicants also claim compensation for loss and damage. The Board has no power to award compensation or damages in a case of this kind, but if the applicants consider that they have any legal rights in the premises in respect of the matters set out in the application, they should take proceedings to establish such rights in the ordinary way before the courts of the country. The order to be made upon this application should be without prejudice to any rights which the applicants may have in this respect. The order will provide that the railway company fence and maintain fences at either end of its right of way where it crosses the applicants' farm. The railway company should also maintain the new farm crossing so long as it shall continue to be owner of the right of way. In other respects the application must be dismissed.

November 29, 1937.

The Deputy Chief Commissioner and Commissioner Stoneman concurred.

ORDER No. 55275

In the matter of the application of John FitzGibbon, Violet FitzGibbon, and Greville FitzGibbon for an Order directing the Canadian National Railways to repair and maintain the overhead farm crossing in Lot 27, Concession D, Township of Scarboro, County of York, and Province of Ontario; or, in the alternative, to make compensation in lieu of such maintenance.

File No. 3878.356

FRIDAY, the 3rd day of December, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Toronto, September 28, 1937, in the presence of Counsel for the Applicants and the Railway

Company, and what was alleged; and upon the report of an Engineer of the Board—

It is ordered:

1. That the application for repair and maintenance of the said overhead farm crossing be, and it is hereby, refused, without prejudice to the rights or remedies of the parties, if any, in the courts.

2. That the Canadian National Railways erect and maintain fences at each end of their right of way where it crosses the Applicants' farm, as agreed at the hearing; and do also maintain the new farm crossing substituted for the overhead crossing, so long as they shall continue to be owners of the right of way.

H. GUTHRIE,
Chief Commissioner.

Application of The London & Port Stanley Railway for an Order authorizing removal of present crossing signal at Stop 2, 1st Concession, Westminster Township, Ontario, and the installation of a modern signal with wigwag in lieu thereof; and for the apportionment of the cost and maintenance of the new signal.

(File No. 30424.11)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This was an application by the London & Port Stanley Railway Company for an order authorizing the removal of the present crossing signal at Stop 2, 1st Concession, Township of Westminster, County of Middlesex, Ont., and for the installation of a modern signal with wigwag in lieu thereof; and for the apportionment of the cost and maintenance of the new signal. The application was heard at the Village of Port Stanley on November 26, 1937, in the presence of representatives of the railway company and of the Township of Westminster.

It was stated by the representative of the railway that the present signal at the above point has now become obsolete. It was erected many years ago and consists of an electric light which warns of approaching trains. This signal has for a long time proved unsatisfactory. When it becomes out of repair it is difficult to procure repair parts as this particular signal is no longer manufactured and is considered to be obsolete. After hearing what was alleged by the various parties an agreement was come to by representatives of the railway company and of the Township of Westminster whereby it was agreed that the present signal should be removed and that bells and wigwags should be erected to take its place. It was represented by the railway company that the cost of the erection of bells and wigwags would be \$2,000, and the annual maintenance thereof would be approximately \$200.

In the opinion of the Board this is a case in which it would be proper to make a grant of 40 per cent of the cost from the Grade Crossing Fund. This would leave a balance of \$1,200 to be furnished by the railway and the Township of Westminster. It was agreed that the township should contribute \$250 towards the cost of erection and that the balance of such cost should be paid by the railway. It was also agreed between the parties that the maintenance should be borne by the railway company and by the Township of Westminster in equal portions, but that the cost of maintenance to the township should in no case exceed the sum of \$100 per year.

Under the above circumstances I would recommend that an order issue for the removal of the present signal upon the railway company's track at Stop 2, 1st Concession, Township of Westminster, and that a bell and wigwag be erected

in lieu thereof; that the cost of the erection of the bell and wigwag be paid for as follows: Forty per cent from the Grade Crossing Fund, not to exceed the sum of \$800; \$250 to be paid by the Township of Westminster, and the balance of the cost to be paid by the railway company. That the cost of future maintenance be divided equally between the railway company and the township up to the annual sum of \$200 but that in no year shall the township be called upon to pay more than \$100 by way of maintenance.

NOVEMBER 30, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55271

In the matter of the accident, on August 11, 1937, at the crossing of Brick Street by the London & Port Stanley Railway, immediately south of Stop 2, in the Township of Westminster, County of Middlesex, and Province of Ontario; and the application of the London & Port Stanley Railway Company for an Order authorizing the removal of present crossing signal and the installation of a modern signal with bell in lieu thereof; and for the apportionment of the cost of installation and maintenance of the new signal.

File No. 30424.11

WEDNESDAY, the 1st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Port Stanley, November 26, 1937, the Railway Company and the Township of Westminster being represented at the hearing, and what was alleged, the said parties consenting—

It is ordered:

1. That the London & Port Stanley Railway Company be, and it is hereby, authorized to remove the present bell at the said crossing of Brick street, immediately south of Stop 2, in the Township of Westminster, County of Middlesex and Province of Ontario; and that within ninety days from the removal thereof the Company install a new automatic bell and wigwag in lieu thereof, in accordance with the Standard Specifications for Highway Crossing Signals, approved under General Order No. 468, dated 12th March, 1929, as amended by General Orders Nos. 521 and 553, dated respectively 2nd November, 1933, and 26th March, 1936; a detail plan showing the layout thereof to be submitted for the approval of an Engineer of the Board.

2. That forty per cent of the cost of installing the said bell and wigwag be paid out of the Railway Grade Crossing Fund, the amount not to exceed the sum of \$800; that \$250 be paid by the Township of Westminster; and that the remainder be paid by the London & Port Stanley Railway Company.

3. That the cost of maintaining the said bell and wigwag be borne and paid equally by the London & Port Stanley Railway Company and the Township of Westminster, up to the annual sum of \$200, but in no year shall the said Township be called upon to pay more than \$100 by way of maintenance.

H. GUTHRIE,
Chief Commissioner.

Application of The London & Port Stanley Railway for an Order authorizing the removal of present crossing signal at Stop 23, Warren Street, Port Stanley, Ontario, and the installation of a modern signal with wigwag in lieu thereof; and for the apportionment of the cost and maintenance of the new signal.

File No. 9437.1289

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This was an application by the London & Port Stanley Railway for an order authorizing the removal of the present crossing signal at Stop 23, Warren street, in the village of Port Stanley, Ontario, and for the installation of a modern bell and wigwag at this point. The application was heard at Port Stanley on November 26, 1937, in the presence of the General Manager of the Railway Company and of counsel for the village of Port Stanley.

It was stated by the representative of the railway that the present signal at the above point has now become obsolete. It was erected many years ago and consists of an electric light which warns of approaching trains. This signal has for a long time proved unsatisfactory. When it becomes out of repair it is difficult to procure repair parts as this particular signal is no longer manufactured and is considered to be obsolete. After hearing what was alleged by the various parties an agreement was come to by representatives of the railway company and the village authorities whereby it was agreed that the present signal should be removed and that bells and wigwags should be erected to take its place. It was represented by the railway company that the cost of the erection of bells and wigwags would be \$2,000, and the annual maintenance thereof would be approximately \$200.

In the opinion of the Board this is a case in which it would be proper to make a grant of 40 per cent of the cost from the Grade Crossing Fund. This would leave a balance of \$1,200 to be furnished by the railway and the village of Port Stanley. It was agreed that the village should contribute \$250 towards the cost of erection and that the balance of such cost should be paid by the railway. It was also agreed between the parties that the maintenance should be borne by the railway company and by the village of Port Stanley in equal portions, but that the cost of maintenance to the village should in no case exceed the sum of \$100 per year.

Under the above circumstances I would recommend that an order issue for the removal of the present signal upon the railway company's track at Warren street, Port Stanley, and that a bell and wigwag be erected in lieu thereof; that the cost of the erection of the bell and wigwag be paid for as follows: Forty per cent from the Grade Crossing Fund, not to exceed the sum of \$800; \$250 to be paid by the village of Port Stanley, and the balance of the cost to be paid by the railway company. That the cost of future maintenance be divided equally between the railway company and the village up to the annual sum of \$200 but that in no year shall the village be called upon to pay more than \$100 by way of maintenance.

NOVEMBER 30, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55272

In the matter of the application of the London & Port Stanley Railway Company for an Order authorizing the removal of the present crossing signal at the crossing of Warren Street (Stop 23), in the Village of Port Stanley, Province of Ontario, and the installation of a modern bell and wigwag in lieu thereof; also for the apportionment of the cost of installation and maintenance of the new signal.

File No. 9437.1289

WEDNESDAY, the 1st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held in Port Stanley, November 26, 1937, the Railway Company and the Village of Port Stanley being represented at the hearing, and what was alleged, the said parties consenting—

It is ordered:

1. That the London & Port Stanley Railway Company be, and it is hereby, authorized to remove the present bell at the said crossing of Warren street, in the village of Port Stanley, province of Ontario; and that within ninety days from the removal thereof the Company install a new automatic bell and wigwag in lieu thereof, in accordance with the Standard Specifications for Highway Crossing signals, approved under General Order No. 468, dated 12th March, 1929, as amended by General Orders Nos. 521 and 553, dated respectively 2nd November, 1933, and 26th March, 1936; a detail plan showing the layout thereof to be submitted for the approval of an Engineer of the Board.

2. That forty per cent of the cost of installing the said bell and wigwag, not exceeding the sum of \$800, be paid out of the Railway Grade Crossing Fund; \$250 to be paid by the village of Port Stanley; and the remainder to be paid by the London & Port Stanley Railway Company.

3. That the cost of maintaining the said bell and wigwag be divided equally between the London & Port Stanley Railway Company and the village of Port Stanley, up to the annual sum of \$200, but in no year shall the said village be called upon to pay more than \$100 by way of maintenance.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55188

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 15th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement 13 to Tariff C.R.C. No. E-1671

"	38	"	"	E-1906
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"	38	"	"	E-2248
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H. GUTHRIE,
Chief Commissioner.

ORDER No. 55211

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

SATURDAY, the 20th day of November, A.D. 1937

Hon. HUGH GUTHRIE, K.C., *Chief commissioner.*

S. J. McLEAN, Assistant Chief Commissioner.

The Board Orders:

1. That the toll published in item 103 of Supplement No. 14 to Tariff C.R.C. No. E-2448, filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act, be, and it is hereby approved, subject to the provisions of subsection 3 of the said Section 3; the Temiscouata Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Temiscouata Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 105 of Supplement No. 14 to Tariff C.R.C. No. E-2448, approved herein, is—

Cents per 100	pounds
Billed	Normal
6	7½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55221

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 22nd day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement	20	to	Tariff	C.R.C.	No.	E-1233
"	35	"	"	"	"	E-1689
"	36	"	"	"	"	E-1689
"	32	"	"	"	"	E-1737
"	46	"	"	"	"	E-1829
"	47	"	"	"	"	E-1829
"	40	"	"	"	"	E-1974
"	25	"	"	"	"	E-2444
"	30	"	"	"	"	E-2564

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55223

In the matter of tariffs, and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

MONDAY, the 22nd day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 761, filed by the Temiscouata Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No 761, approved herein, is 5 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55219

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

TUESDAY, the 23rd day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief commissioner.*
G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in Tariff C.R.C. No. 760, filed by the Temiscouata Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3, of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3, of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 760, approved herein, are those shown in Supplement No. 1 to Tariff C.R.C. No. 413, the minimum charge for any single shipment to be 50 cents.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55225

In the matter of the application of the Grand River Railway Company, hereinafter called the "Applicant Company," under Sections 252 and 276 of the Railway Act, for authority to open for the carriage of traffic that portion of its line of railway as relocated from a point on its main line at mileage 1·22 between Roxboro Road and Jarvis Street in the City of Galt, Province of Ontario, thence along the southerly portion of the right of way of the Canadian National Railways' Fergus Subdivision in the City of Galt and the Townships of North Dumfries and Waterloo, to a point on the Applicant Company's main line at Mileage 3·00 in the Town of Preston, all in the County of Waterloo, Province of Ontario; and for authority to operate its trains across the Canadian National Railways' branch line to Babcock-Wilcox & Goldie McCulloch, Limited, in Subdivision Lot 2, east of Grand River, Concession 12, in the Township of North Dumfries.

File No. 40477

TUESDAY, the 23rd day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon the report and recommendation of the Chief Engineer and the Chief Operating Officer of the Board—

It is ordered:

1. That the Applicant Company be, and it is hereby, authorized to open for the carriage of traffic that portion of its line of railway as relocated from a point on its main line at mileage 1·22 between Roxboro Road and Jarvis Street, in the City of Galt and Province of Ontario, thence along the southerly portion of the right of way of the Canadian National Railways' Fergus Subdivision in the City of Galt and the Township of North Dumfries and Waterloo to a point on the Applicant Company's main line at mileage 3·00 in the Town of Preston, all in the County of Waterloo and Province of Ontario.

2. That the Applicant Company be, and it is hereby, authorized to operate its trains over the crossing of the Canadian National Railways' branch line to Babcock-Wilcox & Goldie McCulloch, Limited, in Subdivision Lot 2 east of Grand River, Concession 12, in the Township of North Dumfries, approved under Order No. 54763, dated August 31, 1937, without their first being brought to a stop, provided the signals are clear.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55229

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," under Section 276 of the Railway Act, for authority to open for the carriage of traffic that portion of their Senneterre-Val D'Or line between mileage 0·00 and 37·5.

File No. 40248

THURSDAY, the 25th day of November, A.D. 1937.

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Upon the report and recommendation of the Division Engineer of the Board, and the filing of the necessary affidavit—

It is ordered: That the Applicants be, and they are hereby, authorized to open for the carriage of traffic that portion of their Senneterre-Val O'Or line between mileage 0·00 and 37·5.

F. N. GARCEAU,
Deputy Chief Commissioner.

ORDER No. 55252

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

MONDAY, the 29th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item 280-A of Supplement No. 2 to Tariff C.R.C. No. E-4790, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 280A of Supplement No. 2 to Tariff C.R.C. No. E-4790, approved herein, are as follows:—

Item	Cents per 100 pounds		
	H	K	L
280A—Minimum 60,000.....	87	88½	89
From Bridgetown, N.S.	105½		

From stations on the Dominion Atlantic Railway one and one-half cents per hundred pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 567

In the matter of the General Order of the Board No. 131, dated 6th July, 1914, as amended by General Order No. 516, dated 17th August, 1933, requiring railway companies subject to the jurisdiction of the Board, inter alia, to equip their locomotives with double windows in the front of the cabs during the winter season, November 1st to April 30th; the same to be made air-tight.

File No. 21351

TUESDAY, the 23rd day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon reading the application of the Railway Association of Canada for an amendment to the said General Order No. 131 in order to permit the use of new devices when it is practical and desirable to do so; and reading what has been filed on behalf of the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen; and upon the report and recommendation of the Chief Operating Officer of the Board—

It is ordered that the said General Order No. 131, dated 6th July, 1914, be, and it is hereby, further amended by striking out the last paragraph thereof and substituting therefor the following, namely:—

“5. *And it is further ordered* that during the winter season, November 1 to April 30, front windows of locomotive cabs must be equipped with double windows, the same to be made air-tight; or with an air jet defroster acting upon a single pane of glass; or such other device as may be approved by the Board, for the purpose of preventing the frosting over of front windows.”

H. GUTHRIE,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

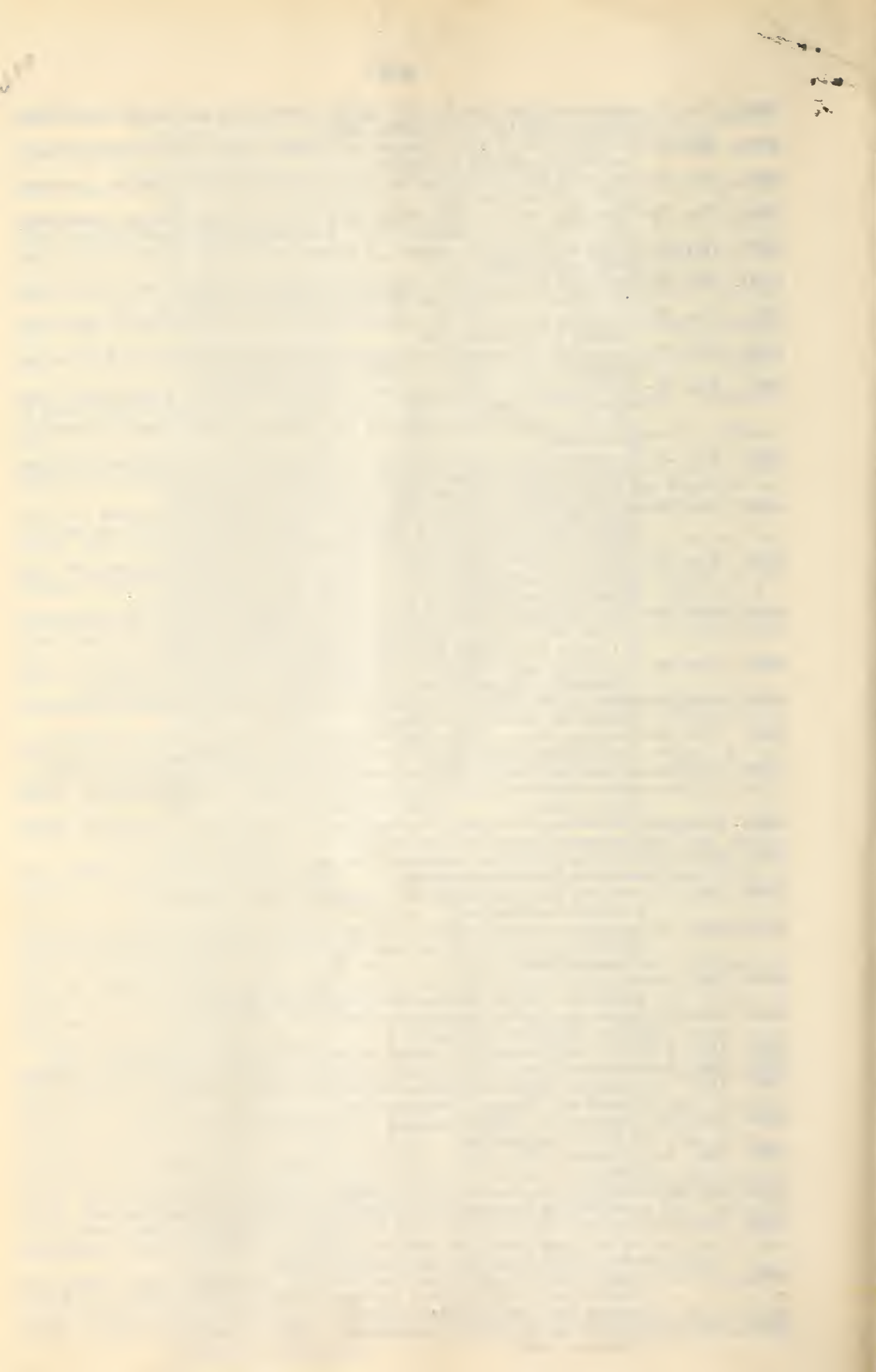
- 55108. Nov. 1—Authorizing the C.N.R. to operate under overhead bridge on Dundas St. West, Toronto, Ont.
- 55109. Nov. 1—Declaring the C.P.R. crossing at mileage 89·5 Hoadley Subdv. protected to Board's satisfaction.
- 55110. Nov. 2—Declaring the C.P.R. crossing at mileage 10·70 St. John Subdv. protected to Board's satisfaction.
- 55111. Nov. 1—Authorizing the C.N.R. to move existing crossing on the Port Stanton Road at Sparrow Lake, Ont., mileage 93·8 Muskoka Subdv. northerly toward Sparrow Lake Station.
- 55112. Nov. 1—Authorizing the Township of Orillia, Ont., to move existing crossing of the C.N.R. at mileage 92·97 Bala Subdv. to a point further north.
- 55113. Nov. 1—Authorizing the R. M. of Daly, Man., to construct an overhead bridge across the C.N.R. on road allowance east of Sec. 13-12-21-W1M.
- 55114. Nov. 1—Authorizing the C.P.R. to construct a branch line to serve the Canadian International Paper Co. at mileage 112·40 Lachute Subdv.
- 55115. Nov. 1—Authorizing the Dept. of Roads for Quebec to construct a subway under the C.P.R. at mileage 6·0 Newport Subdv.
- 55116. Nov. 2—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55117. Nov. 2—Approving traffic agreement between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the Village of Magnetawan.
- 55118. Nov. 2—Approving traffic agreements between the Bell Telephone Co. and the Bonfield Telephone Co., Ltd., Rutherglen Rural Telephone Co., Ltd., and the Commissioners for the Telephone System of the Municipality of the Village of Blyth.
- 55119. Nov. 2—Authorizing the C.N.R. to construct siding across the Welland-Port Colborne Highway at mileage 1·42 Humberstone Subdv.
- 55120. Nov. 3—Declaring the C.P.R. crossing at mileage 24·97 Glenboro Subdv. protected to Board's satisfaction.
- 55121. Nov. 3—Approving location of freight and passenger shelter to be erected at Withrow, Alta. C.P.R.
- 55122. Nov. 2—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Owen Sound Subdv.
- 55123. Nov. 1—Requiring the C.N.R. to install double bells and wigwags at crossing east of Lennoxville Station, Que.
- 55124. Oct. 29—Authorizing the New York Central Railroad Co. to change certain signals at crossing of the C.N.R. at Appin, Ont.
- 55125. Nov. 4—Approving By-law of the City of London, Ont., re blowing of whistle on locomotives, etc.
- 55126. Nov. 2—Approving traffic agreement between the Bell Telephone Co. and the People's Mutual Telephone Co. Ltd.
- 55127. Nov. 3—Declaring the C.P.R. crossing first east of Williamstown, Ont., protected to Board's satisfaction.
- 55128. Nov. 5—Granting the Pere Marquette Railway Co. leave to file on one day's notice a supplement to its Tariff C.R.C. No. 2949 to correct errors.
- 55129. Nov. 6—Relieving the New York Central Railroad Co. from maintaining cattle guards at certain highway crossings in the Township of South Norwich.
- 55130. Nov. 6—Declaring the C.P.R. crossing at mileage 64·59 Taber Subdv. protected to Board's satisfaction.
- 55131. Nov. 6—Declaring the C.N.R. crossing at mileage 5·7 Oak Point Subdv. protected to Board's satisfaction.
- 55132. Nov. 5—Authorizing the C.P. R. to remove station agent at Forget, Sask.
- 55133. Nov. 4—Authorizing the C.N.R. to construct their track across the road to Granada Mines, mileage 98·31 from Senneterre, Que.
- 55134. Nov. 4—Approving clearances of ramp to be erected by J. A. Fraser, Gooderham, Ont., adjacent to proposed C.N.R. siding.
- 55135. Nov. 4—Authorizing the C.P.R. to remove derrails at interlocking plant at crossing of its Prescott and Winchester Subdivisions at Bedell, Ont.
- 55136. Nov. 4—Authorizing the C.N.R. to operate bridge at mileage 113·6 Albreda Subdv.
- 55137. Nov. 4—Approving Traffic Agreement between the Bell Telephone Co. and Le Telephone Woburn.
- 55138. Nov. 5—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55139. Nov. 5—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Cumberland Railway & Coal Co. under Sec. 9.
- 55140. Nov. 5—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Cumberland Railway & Coal Co. under Sec. 9.

- 55142. Nov. 6—Declaring the C.P.R. crossing at mileage 7·90 Winchester Subdv. protected to Board's satisfaction.
- 55143. Nov. 6—Approving amendment of New York Central Railroad Company's Operating Rules.
- 55144. Nov. 4—Directing the Bell Telephone Co., et al to remove their respective plants and equipment from Victoria Park Ave., as soon as C.N.R. are ready to proceed with construction of subway.
- 55145. Nov. 8—Dismissing complaint of Geo. C. Goodfellow of Montreal, Que., against the non-application of export freight rates on lumber for furtherance to points in Newfoundland.
- 55146. Nov. 8—Approving plan showing location of crossing over C.N.R. in the NE4-29-15-13-W3M, Sask.
- 55147. Nov. 8—Relieving the C.P.R. from maintaining cattle guards at highway crossing mileage 40·8 Windsor Subdv.
- 55148. Nov. 8—Approving clearances at proposed siding to be constructed by the C.N.R. to serve Roe Farms Milling Co. at Atwood, Ont.
- 55149. Nov. 8—Authorizing the C.P.R. to construct two branch lines to serve the Ralston Purina Co., Ltd., at mileage 3·84 La Salle Loop Line Subdv.
- 55150. Nov. 8—Approving Traffic Agreement between the Bell Telephone Co. and the South Bruce Rural Telephone Co., Ltd.
- 55151. Nov. 8—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55152. Nov. 6—Authorizing the C.P.R. to operate a branch line to serve the Burke Lumber Company at mileage 0·8 Eburne & Westminster Branch.
- 55153. Nov. 6—Authorizing the C.P.R. to construct a branch line to serve the Great Lakes Paper Co., Ltd., at mileage 75 Kaministiquia Subdv.
- 55154. Nov. 8—Declaring the C.P.R. crossing second east of Magog Station protected to Board's satisfaction.
- 55155. Nov. 9—Declaring the C.N.R. crossing about two miles east of Scarboro, Ont., protected to Board's satisfaction.
- 55156. Nov. 9—Approving Traffic Agreement between the Bell Telephone Company and the Conn Telephone Co., Ltd.
- 55157. Nov. 9—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in item of supplement to tariff filed by the Dominion Atlantic Railway Co., under Sec. 9.
- 55158. Nov. 9—Declaring the C.P.R. crossing of Comox Road, Nanaimo, B.C., protected to Board's satisfaction.
- 55159. Nov. 10—Approving Niagara, St. Catharines & Toronto Railway Co. Standard Passenger Tariff C.R.C. No. 346, effective Dec. 1st, 1937.
- 55160. Nov. 9—Authorizing the C.N.R. to construct highway crossing at mileage 42·16 Senneterre-Rouyn Branch Line.
- 55161. Nov. 9—Authorizing the C.N.R. to operate over subway at Station Avenue, Shawinigan Falls, Que.
- 55162. Nov. 13—Approving proposed reconstruction of subway carrying tracks of the C.N.R. over Gibson St., Parry Sound, Ont.
- 55163. Nov. 10—Authorizing the Dept. of Public Works for Alberta to construct a highway crossing of the C.P.R. at mileage 48 Macleod Subdv.
- 55164. Nov. 10—Declaring the Montreal & Southern Counties Railway crossing of Cote Noir Road, Mackayville, Que., protected to Board's satisfaction.
- 55165. Nov. 12—Declaring the C.P.R. crossing at mileage 0·28 North Bay Subdivision protected to Board's satisfaction.
- 55166. Nov. 10—Declaring the Grand River Railway Co. crossing at Park St., Waterloo, Ont., protected to Board's satisfaction.
- 55167. Nov. 12—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55168. Nov. 10—Declaring the C.P.R. crossing at mileage 105·96 Willingdon Subdv. protected to Board's satisfaction.
- 55169. Nov. 12—Authorizing the C.N.R. to construct temporary siding across Michigan Ave., Point Edward, Ont.
- 55170. Nov. 13—Slightly amending Order No. 36092 dated Feb. 10, 1925, *re* crossing of the C.N.R. by the C.P.R. at Tisdale, Sask.
- 55171. Nov. 12—Reinstating Order No. 45933 dated Dec. 11, 1930, *re* highway crossing over C.N.R. and Napierville Junction Railway at Delson Junction, Que.
- 55172. Nov. 10—Approving agreement between the Bell Telephone Co. and the Canadian National Telegraph Co.
- 55173. Nov. 12—Authorizing the London & Port Stanley Railway Co. to remove the existing signal at Phillip St. crossing, London, Ont.
- 55174. Nov. 12—Authorizing the Dept. of Public Works for B.C. to construct a highway crossing over the Great Northern Railway at mileage 158·53, near Cawston, B.C.

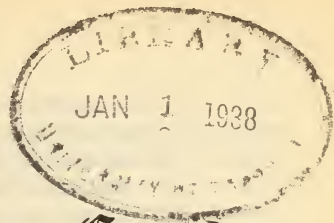
- 55175. Nov. 12—Declaring the Grand River Railway Co. crossing of Kerr St., Galt, Ont., protected to Board's satisfaction, subject to certain provisions.
- 55176. Nov. 13—Authorizing the C.N.R. and the C.P.R. to operate their trains over crossing of the C.P.R. Tisdale Subdv. by the C.N.R. at Armley, Sask.
- 55177. Nov. 15—Authorizing the C.N.R. to relocate the wigwag and bell installed at crossing of Adelaide St., Mount Brydges, Ont.
- 55178. Nov. 15—Approving the clearances of the C.P.R. enginehouse at Sherbrooke, Que.
- 55179. Nov. 13—Slightly amending Order No. 35371 dated July 22, 1924, *re* crossing of the C.N.R. by the Shamrock Subdv. of the C.P.R. mileage 70·3.
- 55180. Nov. 15—Authorizing the C.N.R. to operate under the Trans-Canada Highway bridge at mileage 76·8, Township of Nipigon.
- 55181. Nov. 15—Declaring the C.N.R. crossing of Main St., Alexandria, Ont., protected to Board's satisfaction.
- 55182. Nov. 5—Dismissing the complaint of C. Mainville, Montreal, that the Bell Telephone Co. has assessed charges against him on the basis of the business rate for telephone service in his private residence.
- 55183. Nov. 17—Requiring the Registrar of Deeds for the East Riding of the County of Durham, Ont., to file with the Board certain plans for use as evidence at hearing of application of the C.N.R. for authority to reconstruct railway bridge over the Ganeraska River at Port Hope, Ont.
- 55184. Nov. 16—Declaring the C.N.R. crossing at mileage 32·75 Newmarket Subdv. protected to Board's satisfaction.
- 55185. Nov. 16—Declaring the C.N.R. crossing at mileage 108·91 Fort Frances Subdv. protected to Board's satisfaction.
- 55186. Nov. 16—Authorizing the C.N.R. to cross highway with trackage leading to new wharf at Rimouski, Que.
- 55187. Nov. 15—Authorizing the C.P.R. to construct branch line to serve Burns & Company, Ltd., Winnipeg, Man.
- 55188. Nov. 15—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in certain tariffs filed by the C.N.R. under Sec. 3.
- 55189. Nov. 16—Refusing the application of the Municipality of the Township of Eardley, Que., for an order relieving it from maintaining crossing of the highway by the C.P.R. at mileage 19·91 Waltham Subdv.
- 55190. Nov. 15—Authorizing the C.N.R. to construct a highway crossing near Waubashene, Ont.
- 55191. Nov. 15—Extending the time within which bells and wigwags may be installed by the C.N.R. at Arthur St. Road, Township of Paipoonge, Ont.
- 55192. Nov. 16—Authorizing the C.P.R. to construct two branch lines to serve Manitoba Cold Storage Co., Ltd., Winnipeg, Man.
- 55193. Nov. 16—Declaring the C.N.R. crossing at mileage 23·2 Huntsville Subdv. protected to Board's satisfaction.
- 55194. Nov. 16—Approving Traffic Agreements between the Bell Telephone Co. and the
- 55195. Nov. 16 Long Lac Telephones, Ltd., and the G. E. Wheeler Telephone Co.
- 55196. Nov. 17—Approving C.N.R. plan showing additional width of ten feet of roadway in the subway on the 7th Line Road in Oakville, Ont., etc.
- 55197. Nov. 17—Declaring the C.N.R. crossing at mileage 1·0 Okanagan Subdv. protected to Board's satisfaction.
- 55198. Nov. 17—Slightly amending Order No. 55098 dated Nov. 1 authorizing the C.P.R. to construct branch line for Swift Canadian Co., Ltd., at Hanover, Ont.
- 55199. Nov. 17—Approving supplement No. 1 to Bell Telephone Co. service station contract with Commissioners for the Telephone System of the Municipality of the Township of Magnetawan.
- 55200. Nov. 17—Changing hours during which C.N.R. crossing of First Ave. East, Prince Albert, Sask., should be protected by watchmen.
- 55201. Nov. 5—Dismissing complaint of Globe Trading Corp., Ltd., of Montreal, Que., against charge made by the C.N.R. for permitting carload shipments of dried beans to be stopped off at Montreal for inspection.
- 55202. Nov. 18—Declaring the C.P.R. crossing at mileage 35·1 Lac du Bonnet Subdv. protected to Board's satisfaction.
- 55203. Nov. 17—Approving Traffic Agreement between the Bell Telephone Co. and the Plummer, Aberdeen and Galbraith Rural Telephone Association, Ltd.
- 55204. Nov. 20—Extending time within which the Dept. of Roads for Quebec may apply to the Board for leave to appeal to the Supreme Court of Canada from Order No. 54897 dated Sept. 22, 1937.
- 55205. Nov. 19—Authorizing the C.N.R. for purpose of removing obstructions to the view at highway crossing at mileage 0·55 Senneterre-Rouyn Branch line, to enter upon the lands of Willie Lalonde, etc.
- 55206. Nov. 19—Authorizing the C.P.R. to construct a branch line to serve La Société Cooperative Agricole de la Vallée de la Lièvre at mileage 138·04 Ste. Agathe Subdv.

- 55207. Nov. 19—Authorizing the Dept. of Highways for Ontario to reconstruct highway crossing by the C.P.R. two miles east of Belleville Station, Ont.
- 55208. Nov. 19—Declaring the Dominion Atlantic Railway crossing at mileage 14·46 Yarmouth Subdv. protected to Board's satisfaction.
- 55209. Nov. 19—Approving Traffic Agreement between the Bell Telephone Co. and the Haley's Station Telephone Co., Ltd.
- 55210. Nov. 19—Approving Traffic Agreement between the Bell Telephone Co. and Thorold W. J. Lane.
- 55211. Nov. 20—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.N.R. under Sec. 3.
- 55212. Nov. 19—Declaring the C.N.R. crossing at mileage 51·24 Bedford Subdv. protected to Board's satisfaction.
- 55213. Nov. 19—Declaring the C.P.R. crossing at mileage 34·89 Belleville Subdv. protected to Board's satisfaction.
- 55214. Nov. 19—Declaring the C.P.R. crossing at mileage 34·95 Okanagan Subdv. protected to Board's satisfaction.
- 55215. Nov. 19—Authorizing the C.P.R. to close highway crossing at mileage 13·9 Bulyea Subdv.
- 55216. Nov. 20—Declaring the Dominion Atlantic Railway crossing near Cedar St., Windsor, N.S., protected to Board's satisfaction.
- 55217. Nov. 22—Requiring certain plans be produced by Registrar of Deeds for the East Riding of the County of Durham, Ont., and filed with the Board for use as evidence at hearing *re* application of C.N.R. for authority to reconstruct bridge over Ganeraska River at Port Hope, Ont.
- 55218. Nov. 20—Approving Traffic Agreement between the Bell Telephone Co. and the Thedford, Arcona & East Lambton Telephone Co. Ltd.
- 55219. Nov. 22—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in tariff filed by the Temiscouata Railway Co. under Sec. 9.
- 55220. Nov. 22—Extending time within which the Bell Telephone Co. of Canada may apply to Board for leave to appeal to the Supreme Court from Board's Order No. 55071 dated October 26, 1937.
- 55221. Nov. 22—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55222. Nov. 22—Authorizing the Dept. of Highways for Ontario to construct and maintain a highway crossing over the C.N.R. in Lot 4, Concession 1, Eilber Township, District of North Cochrane, Ont.
- 55223. Nov. 23—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Co. under Sec. 9.
- 55224. Nov. 22—Refusing the application of the National Federation of Canadian University Students for lower passenger fares.
- 55225. Nov. 23—Authorizing the Grand River Railway Co. to open for carriage of traffic that portion of its relocated line from a point on its main line mileage 1·22, City of Galt, Ont., to mileage 3·00 in Town of Preston, Ont.
- 55226. Nov. 23—Authorizing the Dept. of Public Works for Prince Edward Island to lower the railway track and raise the public road east of the crossing of Church St. by the C.N.R. in Alberton, P.E.I.
- 55227. Nov. 24—Directing the C.P.R. to erect manually operated gates on each side of Dundas St. crossing, Galt, Ont., etc.
- 55228. Nov. 24—Declaring the C.N.R. crossing of William St., Cobourg, Ont., protected to Board's satisfaction.
- 55229. Nov. 25—Authorizing the C.N.R. to open for carriage of traffic that portion of their Senneterre-Val D'Or line between mileage 0·00 and 37·5.
- 55230. Nov. 24—Authorizing the New York Central Railroad Co. to install double bells and wigwags at Plymouth Road, Welland, Ont.
- 55231. Nov. 23—Refusing application for a rehearing of complaint of Chisholm Saw Mills, Ltd., *re* rates on lumber from Alberta to U.S. points.
- 55232. Nov. 24—Authorizing the C.P.R. to construct a branch line to serve Swift Canadian Co., Ltd., at mileage 1·81 Emerson Subdv.
- 55233. Nov. 27—Declaring the C.N.R. crossing of Michigan Ave., Point Edward, Ont., protected to Board's satisfaction.
- 55234. Nov. 24—Approving Traffic Agreement between the Bell Telephone Co. and Athol A. Edgar and Callum McDermid, Joint Proprietors of Martintown Telephones.
- 55235. Nov. 26—Declaring the C.P.R. crossing of Beaubien St., Montreal, Que., protected to Board's satisfaction.
- 55236. Nov. 23—Permitting the C.N.R. to defer until June 30, 1938, the erection of new fencing still required under Order No. 54916 dated Sept. 29, 1937.
- 55237. Nov. 25—Declaring the C.P.R. crossing near North Devon Station, N.B., protected to Board's satisfaction.
- 55238. Nov. 25—Approving Traffic Agreement between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the Township of Humphrey.

- 55239. Nov. 27—Approving plan filed by the C.N.R. showing site and layout for McColl Frontenac Oil Co. at Flin Flon, Man.
- 55240. Nov. 26—Declaring the C.P.R. crossing at mileage 109·8 Swift Current Subdv., protected to Board's satisfaction.
- 55241. Nov. 25—Declaring the C.P.R. crossing at mileage 152·37 Quebec Subdv., protected to Board's satisfaction.
- 55242. Nov. 24—Extending the time with which work may be commenced on construction of two diversions of Highway No. 1 in vicinity of Morse and Herbert, Sask.
- 55243. Nov. 26—Declaring the C.P.R. crossing at mileage 10·87 Galt Subdv., protected to Board's satisfaction.
- 55244. Nov. 27—Requiring the C.N.R. to install four automatic wigwags, with one bell, at intersection of George and Romaine streets, Peterborough, Ont.
- 55245. Nov. 27—Requiring the C.N.R. to install automatic bell and wigwag at Forest St. crossing, Parry Sound, Ont.
- 55246. Nov. 27—Approving plan showing location and proposed extension to C.N.R. station building at La Tuque, Que., with certain additions.
- 55247. Nov. 27—Requiring the C.N.R. to attach to each post of the proposed bell and wigwags to be installed at Queen St. crossing, Moncton, N.B., one Model 11 gate and gate-arm mechanism of the Western Railway Supply Company's specification.
- 55248. Nov. 27—Requiring the C.N.R. to attach to each post of the proposed bell and wigwags to be installed at Lutz St. crossing, Moncton, N.B., one Western Railway Supply Company gate and gate-arm mechanism.
- 55249. Nov. 27—Requiring the C.N.R. to attach to each post of the proposed bell and wigwags to be installed at Church St. crossing, Moncton, N.B., one Western Railway Supply Company gate and gate-arm mechanism.
- 55250. Nov. 29—Requiring the C.N.R. to attach to each post of the proposed bell and wigwags to be installed at St. George St., Moncton, N.B., one Western Railway Supply Company gate and gate-arm mechanism.
- 55251. Nov. 29—Extending time within which the Bell Telephone Co. and the Consumer's Gas Co. may apply to the Board for leave to appeal to the Supreme Court of Canada from Order No. 55144 dated November 4, 1937.
- 55252. Nov. 29—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55253. Nov. 29—Requiring the C.N.R. to improve the grade of the approach to crossing at mileage 103·15 Mulgrave Subdv.
- 55254. Nov. 30—Extending time within which C.P.R. branch line may be completed, to serve Building Products & Coal Co. Ltd., at Birds Hill Ballast Pit, Man.
- 55255. Nov. 30—Authorizing the C.P.R. to construct an extension of branch line to serve Ayrton Cohen & Co., Ltd., and the B.C. Veneer Works, at mileage 137·26 Nelson Subdv.
- 55256. Nov. 30—Authorizing the C.P.R. to reconstruct overhead bridge at mileage 102·96 Winchester Subdv., at Bedell, Ont.
- 55257. Dec. 1—Declaring the C.N.R. crossing at mileage 15·50 Hagersville Subdv., protected to Board's satisfaction.
- 55258. Dec. 1—Declaring the C.N.R. crossing at mileage 120·48 Cornwall Subdv., protected to Board's satisfaction.
- 55259. Dec. 1—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55260. Dec. 1—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55261. Dec. 1—Approving Traffic Agreement between the Bell Telephone Co. and the Bolton Telephone Co., Ltd.
- 55262. Dec. 1—Approving location of pipe line under C.N.R. tracks at Imperoyal, N.S.
- 55263. Dec. 1—Authorizing the C.N.R. to operate bridge at mileage 3·8 Dodsland Subdv.
- 55264. Dec. 1—Approving traffic agreement between the Bell Telephone Co. and the Lanark and Ramsay Telephone Co.
- 55265. Nov. 29—Declaring the C.P.R. crossing at mileage 72·51 Keewatin Subdv., protected to Board's satisfaction.
- 55266. Dec. 1—Authorizing the C.N.R. to reconstruct bridge at mileage 72·7 Cowichan Subdv.
- 55267. Nov. 30—Requiring the London & Port Stanley Railway Co. to operate its trains over William St. crossing at a speed not exceeding six miles an hour.
- 55268. Nov. 30—Requiring the Department of Highways for Ontario to bear one-third of cost of maintaining the bell and wigwag installed at C.P.R. crossing at mileage 52·0 Hamilton and Goderich Subdv.
- 55269. Nov. 30—Authorizing the Department of Northern Development for Ontario to maintain temporary highway crossing installed over the C.P.R. near Selim Station, Ont., until October 1, 1938.
- 55270. Nov. 30—Authorizing the C.N.R. to construct a highway crossing at mileage 35·08 Alderdale Subdv.



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The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XXVII

January 1, 1938

No. 21

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Consideration of the question of protection to be provided at private crossing at Ballast Pit, Lennoxville, P.Q., Mileage 102.77 Sherbrooke Subdivision of Canadian National Railways.

(File No. 30762-64)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by Antonio Fabi for protection at a railway crossing over the Canadian National Railways at mileage 102.77 of the Sherbrooke Subdivision of the Canadian National Railways.

The application was heard at Sherbrooke on December 1, 1937, in the presence of counsel for the applicant, for the railway company, and for the village of Lennoxville.

There is, apparently, little dispute as to the facts in connection with this matter. The crossing in question was established over fifty years ago as a farm crossing under the provisions of the Railway Act then in force. At that time the property upon both sides of the railway at this crossing consisted of lots 381, 382, 451, and 452, and were all owned by a man named William Morris, who operated them as a farm property. In 1923 William Morris conveyed that portion of lot 452 which pertains to this crossing to Laurent Raymond, and in 1923 Laurent Raymond conveyed this parcel of property to N. W. Price. In 1936 N. W. Price conveyed the property to Antonio Fabi, the present owner thereof.

The applicant's property consists of three acres of land, and since he became the owner of the parcel he has used it exclusively as a gravel pit. The applicant is a contractor with the provincial government for the supply of gravel and in the operation of his gravel pit uses about twenty motor trucks. In taking gravel from the gravel pit it is necessary to cross the railway in order to gain access to the public road on the southerly side of the railway track. In the deed of conveyance of the gravel pit to the applicant, it is provided as follows:—

“It is understood that the purchaser will have access to the said parcel of land by the right of passage above mentioned and as established to reach the highway, and he shall also be responsible for the maintenance

of the gates at the railway crossing and shall have to see to it that they remain always closed as long as he is the only one to enjoy said right of passage, and when other persons obtain the right of using said passage, the responsibility and obligations will have to be shared by all those having access to that road."

In order to reach the railway crossing from the gravel pit, the applicant has a right of way over a part of lot 452 as shown upon the plan filed with the Board, and after crossing the railway track he has a right of way over part of lot 381 in order to reach the public road. This roadway is marked upon the plan "private roadway" and extends from the south side of the railway to the public road. Lot 381 on the south side of the railway and lot 452 on the north side of the railway were both owned by William Morris when the farm crossing was established. Lot 381 is now owned by a man named Fletcher. It was stated upon the hearing that Fletcher also owns a small piece of property on the north side of the track, but the evidence in regard to the ownership of the property on the north side of the track was somewhat indefinite.

It was also stated upon the hearing that the crossing is not now used by any person but the applicant, his servants and agents in carrying on his business as a gravel contractor. The applicant is not engaged in any farm operations.

On the south side of the railway track there is a gate erected at this crossing, but there is no gate on the north side of the track.

An accident happened at this crossing on March 6, 1937, when a truck driven by the applicant's son was struck by a train proceeding from Lennoxville to Sherbrooke. The driver's seat in the truck was covered in. The driver says he did not hear the train approaching although he had a fairly good view of the track to the right, but says that his attention was drawn to the left upon which side the view is obstructed by a height of land. The applicant's son stated in evidence that the gate on the south side of the track was open at the time of the accident and that it was always kept open in the daytime to accommodate the passage of the trucks which are engaged in hauling gravel, but that at night the gate is kept closed so that nobody can get through.

There can be no doubt that the sight lines on the southwest side of the crossing are bad. Very little, if any, view is obtainable until a car is within ten feet of the southern rail, but the cost of removing the mound of earth which obstructs the view would be considerable and the applicant is not prepared to go to this expense. The railway company contends that it is in no way liable for this obstruction to the view, and that the original construction and subsequent maintenance of this crossing were solely as a farm crossing. Since 1923 it has become a private crossing used only by the owner of the gravel pit and his employees.

The crossing is situate in the municipality of the village of Lennoxville. The village authorities are opposed to making any expenditure in respect of this crossing and claim that the village is in no way concerned, as the roadway over the crossing is a private roadway and is not in any way under the jurisdiction of the municipality. I think it is clear from the evidence that the crossing is not now used for any farm purpose, nor is it used by any person other than those engaged in working for the applicant in respect of the gravel pit, although it was stated that sometimes persons use the roadway and crossing in the summer to go down to the river, which lies a short distance to the north of the railway, for the purpose of bathing. In my opinion this crossing must be treated as a private crossing, and in maintaining it as such the railway company has done all that can be required of it. If further protection by improved sight lines or otherwise is necessary, the applicant must provide same at his own expense. I think the gate at present is located too far from the tracks; it should be placed not more than fifteen or twenty feet away from the southerly

rail, in order to give the person who alights to open the gate as clear a view as possible of approaching trains. The applicant should for his own protection relocate the gate at not more than twenty feet from the southerly rail, and the gate should be kept closed by the applicant when it is not necessary to leave it open for gravel pit operations. I think also that a watchman should be placed on duty at this crossing, and that the applicant should bear the expense of relocating the gate and also of the watchman. The railway company intimated both at the hearing and in prior correspondence that it will offer no objection to the applicant entering upon the right of way for the purpose of removing the present obstruction and improving the view at his own expense. If this were done by the applicant, it might obviate the necessity of relocating the gate or of placing a watchman at the crossing.

The order to be made in this case will be that the application be dismissed.

December 13, 1937.

The Assistant Chief Commissioner and the Deputy Chief Commissioner concurred.

ORDER No. 55339

In the matter of the consideration of the question of the protection to be provided at the private crossing of roadway by the Canadian National Railways at Raymond's ballast pit, near Lennoxville, Quebec, mileage 102.77 Sherbrooke Subdivision.

File No. 30762.64

THURSDAY, the 16th day of December, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon hearing the matter at the sittings of the Board held at Sherbrooke, December 1, 1937, in the presence of Counsel for the Canadian National Railways, the town of Lennoxville, and Antonio Fabi, and what was alleged,—

It is ordered: That the application of the said Antonio Fabi for protection at the said crossing be, and it is hereby, refused.

H. GUTHRIE,

Chief Commissioner.

Complaints of the Consumers' Co-Operative Refineries Limited, Regina; Hi-Way Refineries Limited, Regina; Home Oil & Refining Co. Ltd., Humboldt; and Yorkton District Board of Trade; regarding rates on absorption gasoline and crude petroleum oil from Calgary, Alta., to points in Saskatchewan.

File No. 26488.6

JUDGMENT

COMMISSIONER STONEMAN:

All rates stated herein are in cents per 100 pounds, and applicable on shipments in carloads, unless otherwise specifically indicated. Prior to August 5, 1936, the class rates applied on crude petroleum oil from Calgary to Moose Jaw and Regina and were 65 and 68 cents, respectively. We do not know that

any movement actually took place under these rates. Effective August 5, 1936, there was published a commodity rate of 26 cents from Calgary to Moose Jaw, applicable only when moved in lots of 5 cars or more. Effective August 26, 1937, a rate of 27 cents was established to Regina, also applicable only when moved in lots of 5 cars or more. Effective on the date last named, there were also published, from Calgary, on the same commodity, rates of $18\frac{1}{2}$ cents to Moose Jaw and 19 cents to Regina, applicable only when moved in lots of 25 cars or more shipped from one station, from one shipper, on one day, on one bill of lading, to one consignee and destination.

Effective September 27, 1937, there was published a rate of 30 cents from Calgary to Regina on a commodity described as absorption gasoline for refining and reshipment, applicable only in lots of 10 cars or more. A rate of $28\frac{1}{2}$ cents was also published from Calgary to Moose Jaw under the same terms.

The Consumers' Co-Operative Refineries Limited, in communications to the Board under dates of September 24 and October 8, 1937, alleged that these rates are unjustly discriminatory and give unreasonable preference to one shipper as compared with another. Complainant states the nature and volume of its business are such that it can only handle one or two cars at one time, whereas the large refineries at Regina and Moose Jaw are able to receive shipments in much larger quantities and avail themselves of the substantially lower rates provided for lots of 10 or 25 cars, as the case may be. The railways filed their submissions in reply to this complaint, and the matter was listed for hearing and heard by the Board at sittings in Regina on November 16 and 17.

The Hi-Way Refineries Limited, in a letter dated November 9, stated they desired to bring before the Board, at its sittings in Regina, the question of rates on crude petroleum oil and casing head gasoline from Calgary in single car lots to various points in the Province of Saskatchewan where they have oil refineries, viz., Moose Jaw, Swift Current, Rosetown, Saskatoon, Prince Albert and Weyburn.

Messrs. Balfour, Hoffman & Balfour, Solicitors, Regina, on behalf of the Home Oil & Refining Co. Ltd., Humboldt, also the Yorkton District Board of Trade, under dates of November 6 and 13, respectively, requested that consideration be given the establishment of equitable rates on these commodities to points in the Province of Saskatchewan.

The general submissions of the railways, with respect to the rates on absorption gasoline in lots of 10 cars and crude petroleum oil in lots of 25 cars, may be summarized as follows:

The rate adjustment which is challenged has arisen out of an unprecedented situation in the production and marketing of crude petroleum originating in the Turner Valley field. In recent years, production in this field was limited to quantities of crude naphtha and wet petroleum gas, from which gasoline was extracted by absorption processes. During the past few months, there has been a new and large production of crude oil and, coupled with this, there has developed a surplus of absorption gasoline. This sudden daily flow of crude petroleum and naphtha, and its accompanying increased production of absorption gasoline, presented an acute marketing situation to be found nowhere else in Canada. Refinery points in other parts of Canada are all accessible to low-cost water transportation or pipe line service, but to none does crude oil move in quantity by rail. In the case of Turner Valley, there is water transportation available neither from the field nor to the available refinery points of Calgary, Moose Jaw or Regina. There are pipe lines from the field to Calgary, but that point can consume only a portion of the new production and the balance must find its outlet on the prairies through means of some form of transportation on land.

The volume of the new production was such that it became immediately feasible that an extension of the pipe lines from Calgary be made to Moose Jaw and Regina by, and for the use of, the two principal consumers of crude oil at those points. The railways not only faced the demand of the producers

to relieve the acute situation caused by the sudden large production, but also the necessity of deciding promptly and definitely whether they could set up rates which would be low enough to meet the certain pipe line competition, or whether they would stand aside, see this pipe line constructed, and the carriage of crude oil in the west by them irrevocably lost.

POTENTIAL PIPE LINE COMPETITION

The railways stated that, before establishing these rates on crude petroleum oil, they satisfied themselves that the construction of a pipe line was feasible and that its construction would be undertaken from Calgary to Moose Jaw and Regina unless they established rates comparable with what the pipe line cost of transportation would be. It is stated that, following many conferences between the representatives of the railways and the parties in interest, the rates now published on crude oil were agreed upon; that they are somewhat higher than the cost of transportation by pipe line would be, but accepted by the oil companies who are thereby relieved of the risk of investment in pipe line.

Mr. LeSueur, Vice-President of the Imperial Oil Limited, appeared at the hearing and stated that they are producers in the Turner Valley; that they have a pipe line from Turner Valley into Calgary; that, when the new and large increase in production recently developed and upon reports concerning this producing field from their geologists, they put experts at work upon the question of feasibility, cost of construction, and cost of transportation of crude oil by pipe line from Calgary to Regina, and, after consideration of all these data, they decided to build a pipe line, unless the railways established a rate commensurate with the pipe line rate. He further stated that they had considered the possibility of the Turner Valley field playing out, as all oil fields do eventually, which is a hazard in connection with pipe line construction, but, in this case, on the strength of their geologists' report, they were prepared to take the risk.

Mr. Armstrong, Assistant Director of the Bureau of Economics of the Canadian National Railways, gave evidence to the effect that he had, under direction, made a study of the economics of the construction of pipe lines in Western Canada, and Exhibit 19, filed at the hearing and distributed to the interested parties, sets out estimated cost of construction and operation and cost, in cents per 100 pounds, for transporting crude oil through a six-inch pipe line from Calgary to Regina at varying quantities pumped per day. Exhibits 12, 13, 15 and 16 also contain considerable data relative to pipe line rates, distribution, miles of pipe line operated, and other statistical information concerning pipe lines in the United States.

Sufficient evidence was given to warrant our accepting as a fact that there was actual potential pipe line competition with respect to movement of crude oil from Calgary to Moose Jaw and Regina, consequently justifying the establishing by the railways of competitive rates from Calgary to these two points to meet such competition. In decisions of this Board as well as the Interstate Commerce Commission it has been held that the existence of potential, as well as actual, competition is justification for the establishment of competitive rates by the railways. In this case, to have required the competition to become an actuality before permitting the publication of competitive rates would have resulted in the traffic being entirely lost to the railways because, obviously, had the pipe line been constructed, there would be no possibility of then moving the traffic by rail.

TARIFF PROVISION REQUIRING MOVEMENT OF CRUDE OIL IN LOTS OF 25 CARS

The position taken by the railways was that, in meeting potential pipe line competition, they were bound to meet it under exactly the same conditions that would prevail if the pipe line were in operation; that any other procedure

would not be justified from the standpoint of competition and, consequently, if they went beyond this, they might be charged with unjust discrimination against oil refineries at other points. It was admitted that they are dealing somewhat in speculation because this is a new form of competition in Canada, without any previous background by which to be guided. However, pipe line operation in the United States has grown to tremendous proportions, there being some 92,000 miles of pipe line in operation. There, pipe line companies are common carriers and subject to the jurisdiction of the Interstate Commerce Commission for interstate movements. It is shown that the pipe line companies require a minimum tender of 10,000 barrels or more at one time. Assuming, therefore, the existence of a pipe line from Calgary to Regina and similar regulations governing the movement of crude oil through it for the complainants, they would probably be required to tender 10,000 barrels at one time in order to receive pipe line movement. It was upon these grounds that the tariff provides for movement in lots of 25 cars, which is the equivalent of approximately 6,000 barrels.

Complainants alleged that, if the pipe line were in operation, they would, no doubt, arrange to bring themselves within its requirements as to minimum tender, which could be done by incurring the necessary expense, which would involve provision for additional storage tanks, increased cost for rental of tank cars, additional capital to make crude oil purchases in larger quantities, etc. By the same means they could bring themselves within the present tariff requirement as to lots of 25 cars, but considered that, inasmuch as the unit of shipment by railway is a carload, it is unreasonable and uneconomic to saddle such an expense upon them and necessitate their bringing in 25 cars at a time instead of in carload units as required.

The matter is, as stated by the railways, one of speculation, and we are not convinced that, under pipe line operation, the complainants could not receive crude oil in units approximating a carload. There is at present a pipe line from the Turner Valley to Calgary through which crude oil is handled and put into storage tanks at Calgary, and it is our understanding that it could be purchased and shipped from these storage tanks in units of a carload at the prevailing price of crude oil at Turner Valley plus the pipe line charge to Calgary and the charge made for receiving, storing and handling at the latter point. We do not see why such a practice could not be followed at Regina under the operation of a pipe line. Some questions were directed to Mr. LeSueur on this point, but he stated he was not in a position to answer them as those details had not been worked out, although he stated: "I presume we would sell to customers where we could do it economically and profitably in relation to the operation of a pipe line."

Upon careful consideration of this phase of the complaint, we do not consider there would be any discriminatory condition of an unjust character against oil refineries at other points created by withdrawing the tariff provision requiring movement of crude oil in lots of 25 cars, and it should be eliminated from the tariffs.

ABSORPTION GASOLINE

Casing head gasoline and absorption gasoline are synonymous terms. It is gasoline obtained from gas by processes of compression or absorption. While it is unsuitable as a motor fuel when used alone, it is mostly used for mixing with ordinary gasoline and, when so mixed or blended, produces a high-grade motor fuel. It appears that the absorption gasoline shipped to the large refineries at Moose Jaw and Regina is in a form requiring some further refining process before it can be used for blending, while that shipped to complainants is obtained from a plant where the complete refining is performed and it requires no further treatment before being used for blending.

The railways published a rate of 30 cents from Calgary to Regina on absorption gasoline for refining and reshipment, applicable only in lots of

10 cars or more. The rate on absorption gasoline when not for refining and reshipment is 68 cents. It is alleged by complainants that the tariff has been published so as to fall in line with the refining procedure of certain shippers and to the absolute detriment of other shippers. Complainants assert that they should not be penalized by a higher rate because the absorption gasoline is brought in in a form requiring no further refining; that it is brought in on the most economical basis, and makes no difference in the volume carried.

The proposed pipe line was to be constructed for the primary purpose of handling crude oil which moves in very large volume. The volume of absorption gasoline is relatively very small. Mr. LeSueur stated that, under pipe line operation, absorption gasoline could also be transported through pipe line at the same cost as for crude oil. The rate published by the railways on absorption gasoline for refining has, therefore, no apparent relationship to pipe line cost of transportation thereof. The railways stated there is no basis for the rates published, but they considered them as high as could be obtained in view of potential pipe line competition. Again, in fixing the requirement that absorption gasoline be moved in lots of 10 cars or more, there does not appear to have been any semblance of duplication of a pipe line situation, because all the data submitted indicated minimum pipe line tender as 10,000 barrels. The railways further stated that, except for the reason above given, they considered that, on absorption gasoline, they should have the gasoline rate, viz., 68 cents, from Calgary to Regina.

The record is meagre in some respects with reference to this commodity. At the hearing, we asked if anyone could furnish us with the difference in price between the absorption gasoline shipped already refined and that requiring some further refining, but obtained no data on this point. The only person making any answer was Mr. Fowler, representing the Consumers' Co-Operative Refineries Limited, who expressed the opinion that their present source of supply would charge them more for the product requiring further refining than for the finished product, as it would disturb their manufacturing procedure.

We consider that the rates on absorption gasoline and gasoline should be dealt with solely from the standpoint of the relative characteristics, values, etc., of these commodities. No evidence was furnished proving that the characteristics and value of gasoline, absorption gasoline partly refined, and absorption gasoline completely refined, differ to such an extent that a rate of 30 cents on one of the commodities and a rate of 68 cents on the others does not constitute a rate difference that is unjustly discriminatory. We consider the rates at present published on absorption gasoline for refining, from Calgary to Moose Jaw and Regina, should be cancelled. If the railways consider there is a necessity for establishing rates lower than the class rates on any of these commodities in single car shipments from certain points of origin to all the destinations to which such shipments may move, and published in such a way as to create no unjust discrimination, having in view the characteristics and value of the commodities, this will be within their discretion, subject to any complaints with respect thereto being dealt with by the Board in the usual manner.

MINIMUM CARLOAD WEIGHT ON CRUDE OIL TO REGINA AND MOOSE JAW

With respect to the rates of 18½ cents to Moose Jaw and 19 cents to Regina, published to meet potential pipe line competition, a minimum weight of 66,000 pounds per car is provided for. Equipment for the movement of liquids is not supplied by the carriers, and must be furnished by the shipper, either through ownership or lease from tank car companies. Mr. Fowler, representing the Consumers' Co-Operative Refineries Limited, stated that, generally speaking, there are two sizes of tank cars in service, with capacities

of approximately 67,000 and 54,000 pounds. He stated both types of cars are available from various tank car companies, but the ratio of rental is slightly higher per gallon of capacity for the larger car; that, while he had no figures before him, he thought the rental of the larger car is \$45 per month and the other \$35 per month, but, upon the same ratio per gallon, the large car would be about \$42 per month, a difference of \$3.

It is a well settled practice that, where low commodity rates are published, the railways may require a higher carload minimum weight than governing on class rates, and, generally speaking, so long as the minimum weight set is not beyond what can reasonably be loaded in a car, this is not an unreasonable stipulation. Having in view the low character of these rates; the empty car haul from points of destination back to shipping point; the mileage allowance of $1\frac{1}{2}$ cents per mile, loaded or empty, paid by the railways to the tank car owners, we do not consider the carload minimum weight established in connection with these rates is unreasonable, nor that it imposes any particular hardship upon the complainants.

RATES ON CRUDE PETROLEUM OIL TO POINTS OTHER THAN MOOSE JAW AND REGINA

The Hi-Way Refineries Limited and Home Oil & Refining Company Limited asked that rates be established to all refining points in Saskatchewan on crude oil in carloads on the basis of the same rate per 100 pounds per 100 miles as the rates of $18\frac{1}{2}$ cents to Moose Jaw and 19 cents to Regina.

We have stated herein that the evidence warrants our accepting the rates to Moose Jaw and Regina as competitive rates compelled by potential pipe line competition. It was not claimed that there is potential pipe line competition to any other points to which crude oil moves in relatively small volume.

The Railway Act contains express provisions enabling the establishment of competitive rates which will not be subject to the long and short haul clause, and the Board has repeatedly held that the existence of competition creates a dissimilarity of circumstances and conditions justifying lower rates where the dissimilar circumstances created by such competition exist, and that this does not constitute unjust discrimination or undue preference of the character forbidden by the Railway Act. The applicants here have no title to rates to points where the competition in question does not exist, which would be on the same basis as established to meet the competitive conditions at Moose Jaw and Regina.

Since the sittings of the Board in Regina last month, the railways published, effective December 9, 1937, rates on crude petroleum oil, in single car lots, from Calgary to all refining points in Alberta, Saskatchewan and Manitoba, on the basis of 40 per cent of the 5th-class rates. In Judgment dated August 22, 1934, in the matter of rates on crude petroleum oil from southwestern United States points to points in Manitoba, Saskatchewan and Alberta, the Board directed that the Canadian lines' proportion of the through rates be based on 40 per cent of the 5th-class rates. We consider the rates established on December 9 provide a reasonable disposition of this question of rates on crude petroleum oil from Calgary to points other than Moose Jaw and Regina.

OTTAWA, December 18, 1937.

Commissioner Stone concurred.

ORDER No. 55340

In the matter of the complaints of the Consumers' Co-operative Refineries Limited, Regina; Hi-Way Refineries Limited, Regina; Home Oil and Refining Company, Limited, Humboldt; and the Yorkton District Board of Trade, regarding rates on absorption gasoline and crude petroleum oil from Calgary, Alberta, to points in Saskatchewan.

File No. 26488.6

MONDAY, the 20th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the complaints at the sittings of the Board held at Regina, Saskatchewan, November 16 and 17, 1937, in the presence of Counsel for and representatives of the Consumers' Co-operative Refineries Limited, Hi-Way Refineries Limited, Imperial Oil Limited, Moose Jaw Consumers' Co-operative Association, the Canadian National Railways, and the Canadian Pacific Railway Company, and what was alleged—

It is ordered:

1. That the rates on absorption gasoline for refining and reshipment, published in Item 7-B in Supplement No. 45 to Canadian Pacific Railway Tariff C.R.C. No. W-2987, and Item 3-A in Supplement No. 32 to Canadian National Railways Tariff C.R.C. No. W-735, be cancelled forthwith.

2. That Item 44-C in Supplement No. 45 to Canadian Pacific Railway Tariff C.R.C. No. W-2987, and Item 33-B in Supplement No. 32 to Canadian National Railways Tariff C.R.C. No. W-735, be forthwith amended by deletion of the provision therein now reading:—

“Applicable only in lots of 25 cars or more from one station, from one shipper, in one day, on one bill of lading, to one consignee and destination.”

H. GUTHRIE,

Chief Commissioner.

Application of the London and Port Stanley Railway Company for an Order authorizing the removal of the crossing signal at present installed at Stop 22, 2nd Concession, Township of Yarmouth, Ontario.

(File No. 30424.4)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the London and Port Stanley Railway Company for an Order authorizing the removal of the crossing signal at present installed at Stop 22, where the railway runs between the Townships of Yarmouth and Southwold, in the County of Elgin, Ontario.

The application was heard at Port Stanley on November 26, 1937, in the presence of Counsel for the applicant and for the Township of Yarmouth, no one appearing for the Township of Southwold, as it was not known that the railway line at the point in question ran between the two townships.

At the present time an automatic light is erected as a warning signal at this crossing. Applicant's railway is an electric railway running between the City of London and the Village of Port Stanley. About 31 trains pass over this crossing during 24 hours, but the traffic on the roadway leading to the crossing is comparatively light. A traffic count taken from November 2, 1937, for 48 hours, shows that the eastbound vehicular traffic was 32 and pedestrians 22. The westbound vehicular traffic was also 32 and pedestrians 15. But it was stated that the traffic in the summer months was heavier than when the traffic count was taken. Counsel for the Municipality of Yarmouth stated that the road is only used by about half a dozen residents of the township. It is an ordinary township road and has not been improved to any extent. The present light signal erected at the crossing has now become obsolete. Repair parts cannot be obtained as this signal is not now manufactured. The cost of operating the light is also rather high. The railway officials state that it costs \$300 per year to maintain it.

The sight lines approaching the crossing on either side of the railway are poor. A small station or shelter erected by the railway company tends to limit the view at one side which might otherwise be obtained.

Counsel for the Township of Yarmouth objected to the municipality paying any part of the cost of the erection of crossing signals, or any part of the maintenance thereof, but intimated that the township of Yarmouth would be prepared to erect the usual advance warning signs on the highway, and also that the removal of the present shelter or station to some other site would be of considerable benefit. The matter was allowed to stand for further consideration upon the understanding that a communication would be sent to the adjoining township of Southwold inquiring if that township would be prepared to erect advance warning signs upon the highway. It was stated that the cost of the standard warning signs would be \$15 each, and that they could be procured from the Ontario Department of Highways. The Board has now received a communication from the Township of Southwold stating that that township is not prepared to take any action in regard to the above proposal.

The highway upon either side of the railway is under the jurisdiction of the respective townships above mentioned, and this Board has no authority to order these municipalities to erect advance warning signs. The roadway leading to this crossing carries such light vehicular and pedestrian traffic that I do not think any heavy expenditure is warranted for protective purposes. I think the present electric light warning might be removed from this crossing upon condition that the railway company removes its station or shelter to another site upon the railway property which will not obstruct the view of approaching trains. If this were done, and the townships concerned would erect advance warning signs upon the township roads, I think the crossing would be sufficiently protected but, as intimated above, there is no power in the Board to compel the townships to erect such signs upon township roads.

An Order should be made relieving the railway company of the necessity of maintaining the light signal now at the crossing, and also requiring the railway company to remove the station or shelter to some other point upon its property which will not interfere with the view. The new location of the station to be subject to the approval of the Board.

December 20, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55359

In the matter of the application of the London and Port Stanley Railway Company, hereinafter called the "Applicant Company," for authority to remove the crossing signal installed at Stop 22, 2nd Concession of the Township of Yarmouth, in the Province of Ontario. •

File No. 30424.4

TUESDAY, the 21st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon hearing the application at Port Stanley, November 26, 1937, in the presence of the manager of the applicant company and counsel for the township of Yarmouth and village of Port Stanley, and what was alleged, and upon reading the submissions filed on behalf of the township of Southwold,—

It is ordered: That the applicant company be, and it is hereby, granted leave to remove the existing crossing signal at stop 22, 2nd concession, township of Yarmouth, in the province of Ontario, subject to and upon the condition that the company remove the station or shelter to some other point on the railway which will not obstruct the view of approaching trains; the new location of the station to be subject to the approval of the Board.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55259

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.13

WEDNESDAY, the 1st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in item 165 of Supplement No. 5 to Tariff C.R.C. No. 1040, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and there are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 165 of Supplement No. 5 to Tariff C.R.C. No. 1040, approved herein, are as follows:—

Item	Cents per barrel
165 From Burtons, N.S.	26 C.L.
Clifton, N.S.	26 C.L.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55260

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.2

WEDNESDAY, the 1st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered:

That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 33 to Tariff C.R.C. E-1737.
 Supplement No. 39 to Tariff C.R.C. E-1906.
 Supplement No. 30 to Tariff C.R.C. E-2047.
 Supplement No. 39 to Tariff C.R.C. E-2248.
 Supplement No. 8 to Tariff C.R.C. E-2474.
 Supplement No. 13 to Tariff C.R.C. E-2526.
 Tariff C.R.C. No. E-2791.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55276

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

FRIDAY, the 3rd day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 110K from St. Stephen, New Brunswick, to Montreal, Quebec, in Supplement No. 16 to Tariff C.R.C. No. E-4316, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 110K, from St. Stephen, New Brunswick, to Montreal, Quebec, in Supplement No. 16 to Tariff C.R.C. No. E-4316, approved herein, is 23½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55281

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

FRIDAY, the 3rd day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items 530B, 860B, and 2995A of Supplement No. 23 to Tariff C.R.C. No. E-4808, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items 530B, 860B, and 2995A of Supplement No. 23 to Tariff C.R.C. No. E-4808, approved herein, are as follows:—

Item	To	Cents per 100 pounds	
530B	Saint John, N.B.	6	
	West Saint John, N.B.	6	
		24,000 lbs.	60,000 lbs.
860B	Edmundston, N.B.	29½	27
	St. Stephen, N.B. ....	..	12½
2995A	From To	Local	Furtherance
	Bartlett, N.B. West Saint John, N.B. ..	6½	6
	Howitt, N.B. West Saint John, N.B. ..	6½	6
	Moore's Mills, N.B. West Saint John, N.B. ..	6½	6
	Moore's Mills, N.B. Saint John, N.B.	6½	6

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55300

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 6th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement No. 40 to Tariff C.R.C. No. E-1906.

Supplement No. 14 to Tariff C.R.C. No. E-2526.

Supplement No. 31 to Tariff C.R.C. No. E-2564.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55297

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to file, on less than statutory notice, a supplement to their Tariff C.R.C. No. W-487, to correct a clerical error.

File No. 27612.166

FRIDAY, the 10th day of December, A.D. 1937.

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Whereas the applicants' Tariff C.R.C. No. W-487 publishes carload rates on coal;

And whereas, in Supplement No. 104, the said tariff was amended to apply on briquettes also and was intended to cover movement of briquettes from Brazeau, Alberta, but through clerical error such supplement did not restrict the rates on briquettes to apply only from the said point, and the applicants desire to amend the said tariff to correct the error, on less than statutory notice,—

It is therefore ordered: That the applicants be, and they are hereby, granted leave to file, on one day's notice, a supplement to their Tariff C.R.C. No. W-487, to correct the said error.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 55309

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 13th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 41 to Tariff C.R.C. No. E-1238.

Supplement 30 to Tariff C.R.C. No. E-1239.

Supplement 48 to Tariff C.R.C. No. E-1829.

Supplement 40 to Tariff C.R.C. No. E-2248.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55322

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.23

TUESDAY, the 14th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 1 to Tariff C.R.C. No. 39, filed by the Canada and Gulf Terminal Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 1 to Tariff C.R.C. No. 39, approved herein, are as follows:—

Group	Cents per 100 pounds
1	2½
2	3

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55326

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.17

TUESDAY, the 14th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 46, filed by the Cumberland Railway and Coal Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 46, approved herein, is 6 cents per 100 pounds.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55337

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

FRIDAY, the 17th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item 1400 of Tariff C.R.C. No. E-2444, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 1400 of Tariff C.R.C. No. E-2444, approved herein, are as follows:—

Item 1400 To	Cents per 100 pounds	
	Billed	Normal
Hantsport, N.S.	12.6	15.8
Kentville, N.S.	14.0	17.5
Windsor, N.S.	10.2	12.0

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55349

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 20th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement 37 to Tariff C.R.C. No. E-1689
 Supplement 41 to Tariff C.R.C. No. E-1906
 Supplement 41 to Tariff C.R.C. No. E-1974
 Supplement 42 to Tariff C.R.C. No. E-1974
 Supplement 5 to Tariff C.R.C. No. E-2629

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, OCTOBER, 1937

Railway accidents. 147 with 27 killed and 124 injured.
Railway accidents at highway crossings. 44 with 8 killed and 75 injured.

	Killed	Injured
Passengers.	2	18
Employees.	11	84
Others.	22	97
	<u>35</u>	<u>199</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Accidents K. I.
Accidents K. I.

NOVA SCOTIA

- 1 .. 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence N.S. 50254.
1 .. 2 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence N.S. 33-331.

NEW BRUNSWICK

- 1 .. 2 Auto Truck—Auto truck drove onto crossing in front of approaching train and was struck. C-3704 N.B.
1 .. 3 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence N.B. 8651.

QUEBEC

- 1 .. 1 Automobile—Auto stalled on crossing and rail motor car ran into it. Licence Que. 88392.
1 1 3 Automobile—Auto driver mistook headlight of train for auto; drove onto crossing in front of approaching train and was struck. Licence N.J. ON-11561.
1 .. 1 Automobile—Auto ran into side of train. Licence Ont. 55-W-5.
1 .. 2 Automobile—Auto driver disregarded bell and wigwag signals and ran into side of train. Licence Penn. 6397.
1 2 4 Automobile—Auto ran into side of train. Licence Que. 64-452.
1 1 .. Automobile—Auto standing on track at crossing with no headlights burning, and was struck by train. Licence Ont. 82-W-47.
1 .. 1 Auto Truck—Failed to stop for crossing and attempted to beat train. Licence Que. F-15380.
1 .. 5 Auto Taxi—Drove onto crossing in front of approaching train and was struck. Licence Que. T-3771.
1 1 .. Pedestrian—Pedestrian struck by train; apparently suicide.

ONTARIO

- 1 1 .. Automobile—Drove onto crossing in front of approaching train and was struck. Licence Ont. 1-J-725.
1 .. 3 Automobile—Ran into standing train on crossing. Licence Ont. 807-X-7.
1 .. 1 Automobile—Ran into standing train on crossing. Licence Ont. 81-X-6.
1 .. 1 Automobile—Auto ran into side of train. Licence Ont. 8-F-638.
1 .. 3 Automobile—Auto driver disregarded bell and wigwag signals and was struck by train. Licence Ont. 3-P-107.
1 .. 3 Automobile—Auto ran into side of train. Licence Ont. 93-L-69.
1 1 .. Automobile—Auto driver attempted to beat train over crossing. Licence Ont. 723-V-3.
1 .. 1 Automobile—Excessive speed of auto; struck by track motor car. Licence Ont. 38-J-50.
1 .. 2 Automobile—Auto ran into side of train. Licence Ont. 7-A-384.
1 .. 1 Auto Truck—Auto truck driven onto crossing in front of approaching train and was struck. Ont. 57324-C.

ONTARIO—*Concluded*

- | | | | |
|---|----|---|--|
| 1 | .. | 1 | Automobile—Auto driver ignored bell and wigwag; passed other vehicles standing at crossing to allow train to pass; drove onto crossing in front of approaching train and was struck. Licence Ont. 26-L-66. |
| 1 | .. | 1 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 82-J-8. |
| 1 | .. | 1 | Automobile—Auto ran into side of train. Licence Ont. 920-R-4. |
| 1 | .. | 1 | Automobile—Auto ran into side of train. Licence Ont. 964-W-7. |
| 1 | .. | 1 | Auto Truck—Truck attempted to beat train over crossing and was struck. Licence Ont. 60355-C. |
| 1 | .. | 1 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 59-M-46. |
| 1 | .. | 2 | Automobile—Auto attempted to beat train over crossing and was struck. Licence Ont. 427-M-1. |

MANITOBA

- | | | | |
|---|----|---|--|
| 1 | .. | 3 | Auto Truck—Truck stalled on crossing and was struck by train. Licence Man. T-5-992. |
| 1 | .. | 1 | Auto Truck—Truck ran into side of train. Licence Man. 6615. |
| 1 | .. | 1 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Man. 40-373. |
| 1 | 1 | 3 | Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Man. T-6-352. |

SASKATCHEWAN

- | | | | |
|---|----|---|---|
| 1 | .. | 2 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Sask. 30425. |
| 1 | .. | 4 | Auto Truck—Failure on the part of truck driver to heed signals of conductor who was flagging crossing. Licence Sask. FT-3167. |

ALBERTA

- | | | | |
|---|----|---|--|
| 1 | .. | 1 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Alta. 75594. |
| 1 | .. | 3 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Alta. 62966. |
| 1 | .. | 2 | Auto Truck—Auto truck ran into side of train. Licence Alta. D-9045. |
| 1 | .. | 1 | Auto Truck—Auto truck drove onto crossing in front of approaching train and was struck. Licence Alta. C-6935. |
| 1 | .. | 1 | Horse-drawn Vehicle—Driver of horse-drawn vehicle cleared crossing. Horse apparently bucked and backed into train. |

BRITISH COLUMBIA

- | | | | |
|---|----|---|---|
| 1 | .. | 2 | Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence B.C. CH-169. |
| 1 | .. | 2 | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence B.C. 34-983. |
| 1 | .. | 1 | Automobile—Auto ran into side of train. Licence B.C. 21813. |

Of the 44 Accidents at Highway Crossings, 34 occurred at Unprotected Crossings, and 10 at Protected Crossings.

Twenty-three of the Accidents occurred during the Daylight Hours, and 21 at Night.

December 10, 1937.

The Board of Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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No. 22

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Application of the City of Moncton, N.B., for reconsideration of the question of protection at Canadian National Railways crossings of Church, St. George, Lutz, and Queen Streets, City of Moncton, N.B., and revision of Orders of the Board Nos. 53603 and 53699, substituting bells and wig-wags to the former gates.

Files Nos. 38681.10, 38681.10.1, 38681.10.2, and 38681.10.3

Report to the Board after a hearing at Moncton, N.B. (July 21, 1937), by F. Nap. Garceau, K.C., Deputy Chief Commissioner, duly authorized by Order No. 54517.

On the day preceding the hearing of this application, with the Board's Chief Engineer, I made a careful inspection of the four highway crossings above mentioned and of their approaches and observed the highway traffic at these crossings. The conditions there are special and most dangerous.

At Moncton, the Canadian National Railways' station and most of the yard tracks are located in the centre of the city; their main double tracks divide the city in two sections, one mostly residential, the other industrial and commercial.

Moncton is the railway's main divisional centre in Eastern Canada. There is very heavy railway and highway traffic, as indicated by statements filed by the city and the railway company; by submissions of Mr. Goodwin, counsel for the city; of Mr. McMonagle, mayor, based on their personal experience as residents. The statements filed demonstrated the need of the most efficient means of protection available for each of the four streets mentioned in the orders under revision.

A census made of the traffic on St. George street, between 8 p.m. and 12 p.m., June 16, 1937, and between 7 a.m. and 8 p.m. the following day, shows that 3,606 pedestrians, 48 horse vehicles, 135 buses, and 3,047 automobiles crossed the double railway tracks during these 17 hours; such traffic being the normal daily summer traffic.

A census taken on the 27th July, 1937, at my request, established that eleven eastbound passenger trains and eleven westbound passenger trains, fifteen eastbound freight trains and thirteen westbound freight trains crossed the four

streets; that there were twenty-four switching movements on Lutz street both ways; on Queen street, eleven, both ways; on St. George and on Church streets, two.

This means that Lutz street was crossed by 98 trains, Queen street by 72, St. George and Church streets by 54.

With the heavy traffic on highways and railways described by the railway traffic census of the 27th July, it is claimed that the bells and wigwags cannot be as adequate a protection as normally working gates owing to the ignorance of too many drivers of the working of the bell and wigwag; also, due to the foolish propensity in too many people to take chances in the face of danger signals, even when a fast-approaching train is in sight.

Experience has shown in too numerous instances that unless a physical deterrent imposes a stop, people will ignore danger signals. No doubt, gates have been crashed, but only in few instances compared with the number of vehicles crossing over the railway while the danger signals are operating.

The contentions of counsel for the applicant and of the mayor of the city are substantiated by experiments and tests that have been made since the judgment which motivated the orders complained of was issued. These tests are described at length in the detailed report of our Chief Engineer on file.

At the 23rd Annual Highway Conference at the University of Michigan, on the efficiency of various types of railway crossing protection, the Assistant Chief Engineer of the Illinois Commerce Commission stated that hidden observers in the vicinity of a crossing had found that only 51 per cent of the drivers who arrived twenty seconds prior to the arrival of a train where the signal was showing a danger indication stopped and waited; that the balance of the drivers were being guided by their estimate of possibility of getting over the crossing rather than by the command of the crossing signal. It was further found that two vehicles out of each one hundred were operated by drivers who were willing to pass over the grade crossing five seconds or less ahead of an approaching train.

Its conclusions were that a considerable percentage of motor vehicle drivers cannot be relied upon to control their vehicles safely at railway crossings upon the giving of merely informal warning, and that it was obvious that if the crossing signals were to do the work they should do and efficiently protect the crossing, there must be some compulsion or some deterrent in the face of danger indication, other than the warning signals or the hazard due to approaching trains. (Engineer's Report, pp. 4 and 5.)

The report of our Engineer also deals extensively and conclusively on the merits of a certain type of railway crossing protection known as "Model 10" of the Western Railway Supply Company as per folder attached.

This device combines the warning signals of the wigwag and the physical deterrent of the gate. It was brought to the Board's attention since Orders 53603 and 53699 were issued.

In my view, the case as now established before the Board leaves no other solution than the installation of the most up-to-date device of railway crossing protection at Lutz, Queen, St. George, and Church streets, i.e., "Model 10" of the Western Railway Supply Company, above referred to.

The railway has already bought the necessary equipment to place bells and wigwags at all four streets; they are actually installed at St. George and Church streets.

As these apparatuses can be substituted to the flashing light of the Model 10 without impairing its operation, I would recommend that Orders Nos. 53603 and 53699 be amended so as to direct the addition to the bells and wigwags of the balanced arm of "Model 10" and lights extending up to the middle of the street on both sides of the railway but opposite one to the other; or, at will,

to substitute to the existing protection at each of the four streets a full "Model T" with flashing lights and gate arms; the cost of this additional protection to be paid 100 per cent, up to \$6,000, from the Department of Transport's Special Supplementary Estimates, Vote 357, the maintenance to be borne by the railway; the orders to come into force when the city of Moncton has enacted and promulgated a by-law ordering every vehicle driver to approach a railway crossing on the right-hand side of the street.

August 19, 1937.

ORDER No. 55247

In the matter of the Order of the Board No. 53603, dated October 17, 1936, authorizing the Canadian National Railways to install, in lieu of the existing gates, one wigwag on the north side of the railway, without bell, and one wigwag on the south side of the railway, with bell, at the crossing of Queen Street, Moncton;

And in the matter of the application of the City of Moncton, in the Province of New Brunswick, for an Order rescinding the said Order No. 53603.

File No. 38681.10.3

SATURDAY, the 27th day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*
F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*
J. A. STONEMAN, *Commissioner.*
G. A. STONE, *Commissioner.*

Whereas the evidence in this application was heard at Moncton, New Brunswick, on July 21, 1937, by the Deputy Chief Commissioner appointed under Section 12 of the Railway Act, in the presence of Counsel for the City of Moncton and the Canadian National Railways, the said Deputy Chief Commissioner having reported to the Board and the said report having been adopted; and upon reading the by-law passed by the said City of Moncton on October 20, 1937, filed—

It is ordered:

1. That the Canadian National Railways be, and they are hereby, required to attach to each post of the proposed bell and wigwags to be installed at the crossing of Queen street, in the City of Moncton, Province of New Brunswick, one Model 11 gate and gate-arm mechanism No. 3561-4A of the Western Railway Supply Company's Specification, with reflector buttons, as indicated on Drawing A.492; the operating mechanism to be either Western Railway Supply Company's Specification 3561-21-UR or 3561-21-GR; the gates to be operated automatically in conjunction with the bell and wigwags to be installed under the said Order No. 53603, dated October 17, 1936; and detail plans to be filed for the approval of an Engineer of the Board.

2. That, with the approval of the Governor in Council by Order in Council P.C. 2905, dated November 24, 1937, one hundred per cent of the cost of installing the said gate and gate-arm mechanism, not exceeding, however, the sum of \$1,500, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38.

3. That the cost of maintaining the said protection be borne and paid by the Canadian National Railways.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55248

In the matter of the Order of the Board No: 53602, dated October 17, 1936, authorizing the Canadian National Railways to install, in lieu of the existing gates, one wigwag on the north side of the railway, with bell, and one wigwag on the south side of the railway, without bell, at the crossing of Lutz Street, Moncton, New Brunswick;

And in the matter of the application of the City of Moncton, in the Province of New Brunswick, for an Order rescinding the said Order No. 53602.

File No. 38681.10.2

SATURDAY, the 27th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Whereas the evidence in this application was heard at Moncton, New Brunswick, on July 21, 1937, by the Deputy Chief Commissioner appointed under Section 12 of the Railway Act, in the presence of Counsel for the City of Moncton and the Canadian National Railways, the said Deputy Chief Commissioner having reported to the Board and the said report having been adopted; and upon reading the by-law passed by the said City of Moncton on October 20, 1937, filed—

It is ordered:

1. That the Canadian National Railways be, and they are hereby, required to attach to each post of the proposed bell and wigwags to be installed at the crossing of Lutz street, in the City of Moncton, Province of New Brunswick, one Model 11 gate and gate-arm mechanism No. 3561-4A of the Western Railway Supply Company's Specification, with reflector buttons, as indicated on Drawing A.492; the operating mechanism to be either Western Railway Supply Company's Specification 3561-21-UR or 3561-21-GR; the gates to be operated automatically in conjunction with the bell and wigwags to be installed under the said Order No. 53602, dated October 17, 1936; and detail plans to be filed for the approval of an Engineer of the Board.

2. That, with the approval of the Governor in Council by Order in Council P.C. 2903, dated November 24, 1937, one hundred per cent of the cost of installing the said gate and gate-arm mechanism, not exceeding, however, the sum of \$1,500, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38.

3. That the cost of maintaining the said protection be borne and paid by the Canadian National Railways.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55249

In the matter of the Order of the Board No. 53600, dated October 17, 1936, authorizing the Canadian National Railways to install, in lieu of the existing gates, one wigwag on the north side of the railway, without bell, and one wigwag on the south side of the railway, with bell, at the crossing of Church Street, Moncton;

And in the matter of the application of the City of Moncton, in the Province of New Brunswick, for an Order rescinding the said Order No. 53600.

File No. 38681.10

SATURDAY, the 27th day of November, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Whereas the evidence in this application was heard at Moncton, New Brunswick, July 21, 1937, by the Deputy Chief Commissioner, appointed under Section 12 of the Railway Act, in the presence of Counsel for the City of Moncton and the Railway Company, the said Deputy Chief Commissioner having reported to the Board and the said report having been adopted; and upon reading the by-law passed by the said City of Moncton on October 20, 1937, filed—

It is ordered:

1. That the Canadian National Railways be, and they are hereby, required to attach to each post of the proposed bell and wigwags to be installed at the crossing of Church street, in the City of Moncton, Province of New Brunswick, one Model 11 gate and gate-arm mechanism No. 3561-4A of the Western Railway Supply Company's Specification, with reflector buttons, as indicated on Drawing A.492; the operating mechanism to be either Western Railway Supply Company's Specification 3561-21-UR or 3561-21-GR; the gates to be operated automatically in conjunction with the bell and wigwags to be installed under the said Order No. 53600, dated October 17, 1936; and detail plans to be filed for the approval of an Engineer of the Board.

2. That, with the approval of the Governor in Council by Order in Council P.C. 2904, dated November 24, 1937, one hundred per cent of the cost of installing the said gate and gate-arm mechanism, not exceeding, however, the sum of \$1,500, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38.

3. That the cost of maintaining the said protection be borne and paid by the Canadian National Railways.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55250

In the matter of the Order of the Board No. 53601, dated October 17, 1936, authorizing the Canadian National Railways to install, in lieu of the existing gates, one wigwag on the north side of the railway, with bell, and one wigwag on the south side of the railway, without bell, at the crossing of St. George Street, Moncton, New Brunswick;

And in the matter of the application of the City of Moncton, in the Province of New Brunswick, for an Order rescinding the said Order No. 53601.

File No. 38681.10.1

MONDAY, the 29th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Asst. Chief Commissioner.*

F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Whereas the evidence in this application was heard at Moncton, New Brunswick, on July 21, 1937, by the Deputy Chief Commissioner, appointed under Section 12 of the Railway Act, in the presence of Counsel for the City of Moncton and the Railway Company, the said Deputy Chief Commissioner having reported to the Board and the said report having been adopted; and upon reading the by-law passed by the said City of Moncton on October 20, 1937, filed—

It is ordered:

1. That the Canadian National Railways be, and they are hereby required to attach to each post of the proposed bell and wigwags to be installed at the crossing of St. George street, in the City of Moncton, Province of New Brunswick, one Model 11 gate and gate-arm mechanism of the Western Railway Supply Company, in accordance with the said Company's Specification No. 3561-4A, with reflector buttons, as indicated on Drawing A.492; the operating mechanism to be either Western Railway Supply Company Specification 3561-21-UR or 3561-21-GR; the gates to be operated automatically in conjunction with the bell and wigwags to be installed under the said Order No. 53601, dated October 17, 1936; and detail plans to be filed for the approval of an Engineer of the Board.

2. That, with the approval of the Governor in Council by Order in Council P.C. 2899, dated November 24, 1937, one hundred per cent of the cost of installing the said gate and gate-arm mechanism, not exceeding, however, the sum of \$1,500, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38.

3. That the cost of maintaining the said protection be borne and paid by the Canadian National Railways.

H. GUTHRIE,

Chief Commissioner.

Application of the Dominion Transport Company, Limited, Montreal, P.Q., for a ruling of the Board as to whether the Canadian Pacific Express Company Cartage Department can make up pool cars under Rule No. 12, Canadian Freight Classification No. 19.

(File No. 33365.112)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the Dominion Transport Company, Limited, of Montreal, for a ruling of the Board as to whether the Canadian Pacific Express Company can make up pool cars for shipment over the Canadian Pacific Railway under Rule No. 12, Canadian Freight Classification No. 19.

The application was heard in Montreal on December 2, 1937, in the presence of Colonel R. Starke, who appeared on behalf of the applicant, and Mr. G. A. Walker, K.C., on behalf of the Canadian Pacific Railway Company. Notice of the hearing of the application was also given to the Boards of Trade of Montreal and Toronto and to the Canadian Manufacturers' Association, but none of these was represented at the hearing.

The whole question involved in this application is as to whether the Canadian Pacific Railway Company may accept freight shipments of pool cars made up by the Canadian Pacific Express Company. Rule 12 of Canadian Freight Classification, which was approved by the Board of Railway Commissioners under General Order No. 562, dated May 13, 1937, is in the following terms:—

“Section 1. Carrier's Agents must not act as agents of shippers or consignees for the assembling or distribution of carload or less than carload freight.

Section 2. Carrier's Agents at points of shipments must not accept freight to be carried at carload ratings or rates for distribution to two or more parties by carrier's agents at point of destination.

Section 3. Carrier's Agents at points of destination must deliver freight carried at carload ratings to one consignee only, and must not accept orders from shippers or consignees calling for split deliveries according to brands, marks, size or other identification of packages.

Section 4. If at the request of the owner of the property or his authorized agents a carload shipment is delivered to more than one consignee, less than carload ratings or rates will be applied on the entire shipment, except that the portion delivered to any one consignee will be subject to Rule 13, Section 1.”

The applicant claims that the Canadian Pacific Express Company is a subsidiary of the railway company, and that the railway company in accepting freight shipments of pool cars made up by the express company is acting contrary to the provisions of Rule 12, Canadian Freight Classification, above set out.

It appeared from the evidence that for a great many years prior to May 1, 1937, the applicant had an exclusive cartage arrangement with the Canadian Pacific Railway Company in the City of Montreal for cartage service in connection with shipments of less-than-carload freight, and in this respect the applicant carried on what is known in the trade as a pool car business negotiating and arranging for the carriage of freight from various consignees in pool cars, chiefly to western Canada. In making up these pool cars a messenger or driver of the applicant called upon and solicited from various shippers shipments of less-than-carload lots, and subsequently assembled these shipments to make up a pool car and shipped the same at carload ratings. In carrying on this work the applicant collected cartage charges direct from the shippers, and if not collected from the shippers the cartage charges were billed to the railway

company under an arrangement made between the railway company and the applicant in this respect. As between the applicant and the railway company this method of operation pertained for many years prior to May, 1937. The same method in all essential respects now pertains between the railway company and the Canadian Pacific Express Company.

The railway company now receives its pool car shipments from Montreal through the Canadian Pacific Express Company which, it is alleged, is a subsidiary of the railway company. An exhibit was filed with the original application, being a bill of cartage charges, which might indicate that the cartage was done by the cartage department of the railway company, but at the foot of this bill there is stamped a notice that shippers are to send their remittances addressed to the Canadian Pacific Express Company, 207 St. James Street West, Montreal.

It appeared also upon the hearing that the railway company did not maintain a cartage department for pool car shipments, but that there is a cartage department in connection with the Canadian Pacific Express Company which performs this work.

It was stated at the hearing that on 1st May, 1937, when the Canadian Pacific Express Company first took over the above cartage arrangement that had previously been performed by the applicant, that the term "Canadian Pacific Cartage Department" was used for a short time upon certain cartage bills; that this name was adopted by the express company, but that when the attention of the railway company was directed to the term "Canadian Pacific Cartage Department" the term "Canadian Pacific Express Company, Freight Cartage Service" was substituted therefor by the express company. The particular form of cartage bill was withdrawn from use early in June, 1937, and the form now in use expressly refers to the Canadian Pacific Express Company, Freight Cartage Service.

Upon the hearing the applicant filed a form of Straight Bill of Lading (Exhibit No. 2) issued by the Canadian Pacific Railway Company, and drew attention to the fact that according to the footnote upon the form the bill of lading is "to be signed by the shipper and agent of the carrier issuing same." The applicant contended that the signing of this bill of lading by the driver or agent of the express company who collected the shipment constituted him the agent of the railway company. I do not think effect should be given to this contention, in view of the decision of the Board in regard to this point in the case of Brade Storage and Distributing Company, Limited, Vancouver, vs. Canadian Pacific Railway and Canadian National Railways, 42 C.R.C. p. 261, and cases therein cited, to which I make reference later on.

It was admitted at the hearing that the Canadian Pacific Express Company is a separate corporate entity as distinct from the railway company, and it was also stated by counsel for the railway company that probably all stock in the express company is actually owned by the railway company. But there can be no doubt that these companies are separate corporate entities and are entitled to exercise all rights and powers granted to them by the laws of Canada. The express company has the same right to contract with the railway company as had the applicant.

The question for decision by the Board is whether the Canadian Pacific Express Company is the agent of the Canadian Pacific Railway Company under the terms of the Order of the Board above referred to.

In a case decided by the Board in 1919, Express Traffic Association vs. Cities of Montreal, Toronto, Winnipeg, etc., reported in 25 C.R.C. p. 61, the Board seems to have recognized the separate corporate entity of the express company and its right as such to do business with the railway company other than as its agent. This case related to express tolls, but I gather from the judgment that the Board was satisfied that the express companies and railway companies there involved should be treated as separate corporate entities.

In the case of Brade Storage and Distributing Company, Limited, Vancouver, vs. Canadian Pacific Railway and Canadian National Railways, previously referred to, where the facts were very similar to the facts presented in the present application, it was held that the arrangement between the railway companies and the cartage companies did not constitute the cartage companies carriers' agents within the provisions of Rule 12, Canadian Freight Classification.

I have also considered the decision of this Board in connection with the case of the Wylie Milling Company vs. Canadian Pacific Railway and the Kingston & Pembroke Railway, File No. 1179.7, which was rendered on 17th October, 1911. In this case the Wylie Milling Company received grain from Kingston over the Kingston & Pembroke Railway to Sharbot Lake and thence over the Canadian Pacific Railway to Almonte, where the applicant's mill was situated, and the question arose whether in regard to fixing freight rates the Kingston & Pembroke Railway Company should be considered as part of the Canadian Pacific Railway Company by reason of the fact that the Canadian Pacific Railway Company owned 51 per cent of the stock of the Kingston & Pembroke Railway Company. It was held in that case that for the purpose of fixing freight rates the Kingston & Pembroke Railway Company should be considered as part of the Canadian Pacific Railway Company.

I think the present case is distinguishable from the last-mentioned case upon the ground that in that case both corporations were railway companies. The Kingston & Pembroke Railway Company had become absorbed into the system of the Canadian Pacific Railway Company, and it was held that these two companies should be treated as operating a single railway system for the purpose of fixing freight rates. In the present case the Canadian Pacific Express Company is not in any sense a railway company. While the express company is engaged in the transportation of merchandise by rail, water and truck, it does not operate a system of railway or water carriage of its own. The express company is also engaged in many forms of business other than the carriage of goods, particularly in regard to the issuance and transport of money by means of drafts and letters of credit to all quarters of the world. In my opinion there is a clear distinction between an express company and a railway company, and I do not think the judgment of the Board in the Wylie Milling Company case should be followed in regard to the present application.

I do not consider that the mere fact that the express company may be regarded as a subsidiary of the railway company distinguishes the present case from the principles laid down by the Board in the Brade case above referred to. In my opinion there has been no contravention of Rule 12, Canadian Freight Classification, above mentioned, and I think that the ruling of the Board should be to this effect.

December 17, 1937.

The Assistant Chief Commissioner and the Deputy Chief Commissioner, concurred.

ORDER No. 55360

In the matter of the application of the Dominion Transport Company, Limited, of Montreal, Quebec, for a ruling of the Board as to whether the Canadian Pacific Express Company's Cartage Department can make up pool cars under Rule 12 of the Canadian Freight Classification No. 19.

File No. 33365.112

TUESDAY, the 21st day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*S. J. McLEAN, *Assistant Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*

Upon hearing the application at the sittings of the Board held at Montreal, December 2, 1937, in the presence of a representative of the Dominion Transport Company, Limited, and counsel for the Canadian Pacific Railway Company, and what was alleged,—

It is declared: That the Canadian Pacific Railway Company, in accepting freight shipments of pool cars made up by the Canadian Pacific Express Company, is not contravening the provisions of the said Rule 12 of the Canadian Freight Classification.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55252

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

MONDAY, the 29th day of November, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item 280-A of Supplement No. 2 to Tariff C.R.C. No. E-4790, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 280-A of Supplement No. 2 to Tariff C.R.C. No. E-4790, approved herein, are as follows:—

Item	Cents per 100 pounds		
	H	K	L
280-A Minimum 60,000.....	87	88½	89
From Bridgetown, N.S.....	105½		

From stations on the Dominion Atlantic Railway one and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55364

In the matter of the application of the Canadian National Railway Company, hereinafter called the "Applicant Company," under Section 348 of the Railway Act, for approval of special contract for the release of responsibility in connection with the movement of paper mill rolls, iron or steel, rubber covered, while transported in heated cars during cold weather.

File No. 40615

FRIDAY, the 24th day of December, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

Upon reading what is filed in support of the application, the concurrence of various interested paper companies, and the recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said special contract for release of responsibility in connection with the movement of paper mill rolls, iron or steel, rubber covered, while transported in heated cars during cold weather, on file with the Board under file number 40615, be, and it is hereby, approved.

S. J. McLEAN,
Assistant Chief Commissioner.

ORDER No. 55375

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

MONDAY, the 27th day of December, A.D. 1937.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 25A of Supplement No. 10 to Tariff C.R.C. No. 860, from Windsor Junction, Nova Scotia, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 25A of Supplement 10 to Tariff C.R.C. No. 860, from Windsor Junction, Nova Scotia, approved herein, is:—

Cents Billed	per 100 pounds Normal
11	14

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55381

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 28th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner*.
G. A. STONE, *Commissioner*.

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 10 to Tariff C.R.C. No. E-1242.
Supplement 14 to Tariff C.R.C. No. E-1671.
Supplement 34 to Tariff C.R.C. No. E-1737.
Supplement 48 to Tariff C.R.C. No. E-1911.
Supplement 31 to Tariff C.R.C. No. E-2047.
Supplement 41 to Tariff C.R.C. No. E-2248.
Supplement 7 to Tariff C.R.C. No. E-2311.
Supplement 16 to Tariff C.R.C. No. E-2448.
Supplement 26 to Tariff C.R.C. No. E-2444.
Supplement 1 to Tariff C.R.C. No. E-2693.
Tariff C.R.C. No. E-2706.
Tariff C.R.C. No. E-2713.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55395

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 29th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner*.
G. A. STONE, *Commissioner*.

The Board orders:

1. That the tolls published in items 160, 190, 300, 310, 520, 620, 830, 860, and 2995 of Tariff C.R.C. No. E-4829, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items 160, 190, 300, 310, 520, 620, 830, 860, and 2995 of Tariff C.R.C. No. E-4829, approved herein, are as follows:—

Item	Cents per 100 pounds	
160..	18	
190..	20	
300..	22½	
310..	18	
520..	12½	
	C.L.	Any quantity
620 To Saint John, N.B..	16½	22½
" West Saint John, N.B..	14	14
830..	15	20
860..		12½
From	Local	Furtherance
2995 Bartlett, N.B., to West Saint John, N.B..}	6½	6
Hewitt, N.B., to West Saint John, N.B..}		
Moore's Mills, N.B., to Saint John, N.B..}	6½	6
Moore's Mills, N.B., to West Saint John, N.B.}		

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55392

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 29th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Section 4 of Supplement No. 42 to Tariff C.R.C. No. E-4322, from Grand Falls, New Brunswick, to Cornwall, Ontario, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Section 4 of Supplement No. 42 to Tariff C.R.C. No. E-4322, from Grand Falls, New Brunswick, to Cornwall, Ontario, approved herein, is 15 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55394

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

WEDNESDAY, the 29th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. E-4833, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. E-4833, approved herein, are as follows:—

From	Cents per 100 pounds
Bonny River, N.B.	4½
Lepreaux, N.B.	3
New River, N.B.	3
Pennfield, N.B.	4
Pocologan, N.B.	4

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55386

In the matter of the application of the Canadian National Railways, herein-after called the "Applicants," for permission to file on less than statutory notice a supplement to their Tariff C.R.C. No. E-2655, to revise export rates on paper and paper commodities, to correct a clerical error.

File No. 27612.167

THURSDAY, the 30th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Assistant Chief Commissioner.*

Whereas, in the applicants' Tariff C.R.C. No. E-2655, items 670 to 676, inclusive, two sets of rates were provided in the "New York, N.Y.,-Edgewater, N.J.,-Weehawken, N.J.," column opposite certain shipping points in Ontario and Quebec, also in the "Saint John, N.B.,-West Saint John, N.B.," "Halifax, N.S.," "Portland, Me.," and "Boston, Mass.,-East Boston, Mass.," columns opposite Thorold, Ont., exclusively, one set applying on paper and paper commodities other than newsprint and the other on newsprint paper only;

And whereas, in Supplement No. 8 to the said Tariff, a general increase was provided in rates on paper and paper commodities other than newsprint, the change being effected by placing the increased rates in a different set of items (820A to 827A), leaving the existing rates in items 670A to 676A applying on newsprint only;

And whereas, by Supplement No. 9, it was intended to restore the old rates on paper and paper commodities other than newsprint until January 31, 1938, but the applicants through clerical error failed to restore the rates on paper and paper commodities other than newsprint, previously carried in the "New York, N.Y.,-Edgewater, N.J.,-Weehawken, N.J.," column and opposite Thorold Ont.,—

It is ordered: That the applicants be, and they are hereby, granted leave to file, on one day's notice, a supplement to their Tariff C.R.C. No. E-2655, to correct the said errors.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55396

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

THURSDAY, the 30th day of December, A.D. 1937.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 13-B, Saint John, New Brunswick, to Digby, Nova Scotia (Route 3), of Supplement No. 5 to Tariff C.R.C. No. E-2629, filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act; the Dominion Atlantic Railway Company's proportion to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportion of the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 13-B, Saint John, New Brunswick, to Digby, Nova Scotia (Route 3), of Supplement No. 5 to Tariff C.R.C. No. E-2629, approved herein, is:—

Cents per 100 pounds	
Billed	Normal
9½	11.6

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF RAILWAY COMMISSIONERS, NOVEMBER, 1937

Railway accidents	99, with 7 killed and 99 injured
Railway accidents at highway crossings.....	37, with 18 killed and 53 injured

	Killed	Injured
Passengers..	—	15
Employees..	4	72
Others..	21	65
	<u>25</u>	<u>152</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

Accidents	K.	I.	
1	—	3	Automobile—Auto drove onto crossing in front of approaching train and was struck; failed to heed crossing bell. Licence N.S. 88-124.
1	—	6	Automobile—Auto ran into side of train. Licence N.S. 72-740.

NEW BRUNSWICK

1	—	2	Automobile—Auto ran into side of train. Licence N.B. 31-173.
1	—	2	Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence N.B. 2721-C.

QUEBEC

- 1 — 1 Auto-Truck—Truck failed to stop for crossing as required by law. Licence Que. L-4205.
- 1 — 1 Auto Truck—Truck failed to stop for crossing and ran into side of train. Licence Que. 94613.
- 1 1 — Automobile—Auto failed to stop for crossing. Licence Que. 120-145.
- 1 — 1 Automobile—Auto ran into side of train. (Defective brakes.) Licence Que. 80-298.
- 1 — 1 Auto Truck—Truck ran into side of train. Licence Que. S-9432.
- 1 1 — Auto Truck—Truck failed to stop for crossing.—Licence Que. L-327.
- 1 — 1 Tricycle—Tricycle passed under lowered crossing gates, and was struck by train.

ONTARIO

- 1 6 — Automobile—Auto driver failed to heed automatic crossing bell; drove onto crossing in front of approaching train and was struck. Licence Ont. 7-K-303.
- 1 1 1 Automobile—Auto ran into side of train. Licence Ont. 667-J-9.
- 1 — 1 Automobile—Auto ran into side of train. Licence N.Y. 6-B-42-68.
- 1 — 8 Automobile—Auto ran into side of train. Licence Ont. 4-Y-776.
- 1 — 1 Automobile—Auto ran into side of train. Licence Ont. 4-T-140.
- 1 — 2 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 7-M-413.
- 1 1 1 Automobile—Auto ran into side of train. Licence Ont. 98-L-88.
- 1 — 2 Automobile—Auto ran into side of train. Licence Ont. 58-H-842.
- 1 — 1 Auto Truck—Truck stalled on crossing in front of approaching train and was struck. Licence Ont. 57412-O.
- 1 — 1 Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Ont. 3900-C.
- 1 1 — Auto Truck—Gasoline truck drove onto crossing in front of approaching train and was struck. (Enveloped in flame.) Licence Ont. 3383-C.
- 1 — 1 Auto Truck—Truck ran into side of train. Licence Ont. 6217-C.
- 1 1 2 Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Ont. 19990-C.
- 1 1 — Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Ont. 35-339-C.
- 1 2 1 Automobile—Auto stalled on crossing; struck by train. Licence Ont. 946-S-7.
- 1 — 1 Automobile—Auto ran into side of train. Licence Ont. 559-D-4.
- 1 — 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 1605-X.
- 1 — 1 Automobile—Auto ran into side of train. Licence Ont. 85-F-37.

MANITOBA

- 1 — 1 Automobile—Auto ran into side of train. Licence Man. 15-210.

SASKATCHEWAN

- 1 — 1 Automobile—Auto stalled on crossing and was struck by train. Licence Sask. 17694.
- 1 1 — Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Sask. 6-336.
- 1 — 1 Automobile—Auto ran into side of train. Licence Sask. 26895.

ALBERTA

- 1 — 5 Automobile—Auto ran into side of train. Licence Alta. 81-925.
- 1 1 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Alta. 2-501.
- 1 — 1 Auto Truck—Auto truck ran into side of train. Licence Alta. 1901-A.

BRITISH COLUMBIA

- 1 1 — Pedestrian—Pedestrian attempted to cross track in front of approaching train and was struck.

Of the thirty-seven accidents at highway crossings, thirty-one occurred at unprotected crossings and six at protected crossings. Sixteen of the accidents occurred during the daylight hours and twenty-one at night.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 55271. Dec. 1—Authorizing the London & Port Stanley Railway Co. to remove present bell at Brick St. crossing, Stop 2, Township of Westminster, County of Middlesex, and to install bell and wigwag.
- 55272. Dec. 1—Authorizing the London & Port Stanley Railway Co. to remove present bell at Warren St., Port Stanley, Ont., and to install bell and wigwag.
- 55273. Nov. 30—Declaring the C.P.R. crossing mileage 65·92 Maniwaki subdv. protected to Board's satisfaction.
- 55274. Dec. 1—Requiring that cars be not placed closer than fifty feet from the nearest side of highway at crossing of C.N.R. west of Kingsey Station, Que.
- 55275. Dec. 3—Requiring the C.N.R. to erect and maintain fences at each end of right of way where it crosses John FitzGibbon's farm, Township of Scarboro, Ont., and to maintain new farm crossing.
- 55276. Dec. 3—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55277. Dec. 3—Approving relocation of C.N.R. spur track on Montreal St., Fort William, Ont.
- 55278. Dec. 3—Authorizing the C.N.R. to reconstruct bridge over highway at mileage 10·6 Sangudo Subdv., Alberta.
- 55279. Dec. 3—Approving location of gasoline unloading and storage plant at mileage 80·7 Maniwaki Subdv., C.P.R.
- 55280. Dec. 3—Declaring the Niagara, St. Catharines & Toronto Railway crossing at Stop 10, 5·13 miles from Thorold Station, Ont., protected to Board's satisfaction.
- 55281. Dec. 3—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55282. Dec. 3—Approving Traffic Agreement between the Bell Telephone Co. and the Beckwith & Montague Rural Telephone Co. Ltd.
- 55283. Dec. 4—Declaring the C.N.R. crossing at mileage 84·51 Armagh Subdv. protected to Board's satisfaction.
- 55284. Dec. 4—Authorizing the City of Shawinigan Falls, Que., to complete the reconstruction of subway under the C.N.R. at Station Ave.
- 55285. Dec. 4—Authorizing the C.P.R. to install double bells and wigwags at highway crossing in Lot 2, Con. 5, Dryden Township, District of Sudbury, Ont.
- 55286. Dec. 4—Authorizing the Dept. of Roads for Quebec to construct a subway under tracks of the Quebec Central Railway Co. at Ascot Corner.
- 55287. Dec. 6—Authorizing the C.P.R. to construct a branch line to serve Chrysler Corporation of Canada, Ltd., at Windsor, Ont.
- 55288. Dec. 6—Authorizing the C.P.R. to operate bridge No. 24·6 Owen Sound Subdv.
- 55289. Dec. 6—Declaring the Niagara, St. Catharines & Toronto Railway crossing between Stops 12 and 13, Fonthill, Ont., protected to Board's satisfaction.
- 55290. Dec. 6—Approving revised location of portion of C.P.R. Minto Subdv. near South Devon, N.B., and authorizing the crossing of the C.N.R. line.
- 55291. Dec. 7—Extending the time within which the Bell Telephone Co. may apply to the Board for leave to appeal to Supreme Court from Order No. 55071.
- 55292. Dec. 9—Authorizing the C.P.R. to construct an extension to branch line to serve Alberta Clay Products, Co. Ltd., Medicine Hat, Alta.
- 55293. Dec. 8—Approving clearances of Leahey Brothers' coal loading platform at Carters Siding, N.B.
- 55294. Dec. 7—Declaring the C.N.R. crossing at mileage 17·89 Viking Subdv. protected to Board's satisfaction.
- 55295. Dec. 7—Extending the time within which the Bell Telephone Co. and The Consumers' Gas Co. may apply to the Board for leave to appeal to Supreme Court from Order No. 55144.
- 55296. Dec. 6—Approving plan showing changes proposed to be made by the C.P.R. to the interlocking plant equipment at crossing of C.N.R. at Russell, Man., etc.
- 55297. Dec. 10—Granting leave to the C.N.R. to file on one day's notice a supplement to their Tariff C.R.C. No. W-487 to correct an error.
- 55298. Dec. 9—Declaring the C.N.R. crossing at mileage 40·34 Drumheller Subdv., protected to Board's satisfaction.
- 55299. Dec. 10—Authorizing the Quebec Central Railway Co. to remove the automatic bell installed at Comstock Bridge crossing, east of Lennoxville, Que.
- 55300. Dec. 6—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55301. Dec. 10—Approving clearance at proposed temporary false work over the C.P.R. at mileage 19·2 Park Ave Subdv.
- 55302. Dec. 10—Authorizing the C.P.R. and C.N.R. to operate their trains over crossing at Allenby Junction, Que., without their first being brought to a stop.

- 55303. Dec. 10—Declaring the C.P.R. crossing at mileage 27·1 Maple Creek Subdv. protected to Board's satisfaction.
- 55304. Dec. 10—Declaring the C.N.R. crossing at mileage 118·82 Cayuga Subdv. protected to Board's satisfaction.
- 55305. Dec. 10—Declaring the C.N.R. crossing at mileage 38·25 Dunnville subdv. protected to Board's satisfaction.
- 55306. Dec. 10—Authorizing the C.P.R. to transfer station agency from Expanse to Bishopric, Sask.
- 55307. Dec. 10—Authorizing the C.P.R. to construct proposed overhead wires upon the superstructure of the C.P.R. bridge No. 102·5 Quebec subdv., over the Batiscan River, Que.
- 55308. Dec. 13—Approving location of warehouse addition, storage tank, and retaining wall now being built by the Home Oil Distributors, Ltd., in Kamloops Station grounds, B.C. (C.P.R.).
- 55309. Dec. 13—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55310. Dec. 13—Requiring the C.N.R. to install an automatic bell and wigwag on highway crossing at York Station, P.E.I.
- 55311. Dec. 13—Declaring the C.N.R. crossing at mileage 2·61 Chatham subdv. protected to Board's satisfaction.
- 55312. Dec. 13—Declaring the Pere Marquette Railway crossing about one mile west of Harrow, Ont., protected to Board's satisfaction.
- 55313. Dec. 13—Extending time within which wigwags and bells may be installed by the C.N.R. at intersection of George and Romaine Streets, Peterborough, Ont.
- 55314. Dec. 14—Declaring the C.N.R. crossing at mileage 22·56 Kashabowie Subdv., protected to Board's satisfaction.
- 55315. Dec. 14—Declaring the C.N.R. crossing at mileage 47·93 Beachburg Subdv., protected to Board's satisfaction.
- 55316. Dec. 14—Relieving the C.P.R. from maintaining cattle guards at crossing at mileage 37·06 Windsor Subdv.
- 55317. Dec. 14—Relieving the C.P.R. from maintaining cattle guards at crossing at mileage 12·3 Hamilton and Goderich Subdv.
- 55318. Dec. 14—Declaring the C.P.R. crossing at mileage 41·65 Megantic Subdv. protected to Board's satisfaction.
- 55319. Dec. 14—Approving Traffic Agreement between the Bell Telephone Co. and La Cie de Téléphone de Joliette.
- 55320. Dec. 13—Approving Traffic Agreement between the Bell Telephone Co. and La Compagnie de Téléphone Rural Soulanges Inc.
- 55321. Dec. 13—Approving traffic agreement between the Bell Telephone Co. and Everett Telephone Co., Ltd.
- 55322. Dec. 14—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the Canada & Gulf Terminal Railway Co. under Sec. 9.
- 55323. Dec. 14—Approving layout of gasoline unloading standard at Imperial Oil Limited siding at Stewiacke, N.S.
- 55324. Dec. 14—Approving layout of gasoline unloading standard at Imperial Oil Limited siding at Milford, N.S.
- 55325. Dec. 13—Approving Supplement No. 3 to service station application between the Bell Telephone Co. and the Muskoka & Parry Sound Telephone Co., Ltd.
- 55326. Dec. 14—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in tariff filed by the Cumberland Railway & Coal Co. under Sec. 9.
- 55327. Dec. 15—Declaring the Nipissing Central Railway crossing at mileage 59·2 Kirkland Lake Subdv. protected to Board's satisfaction.
- 55328. Dec. 15—Declaring the C.N.R. crossing at Queen St., Strathroy, Ont., protected to Board's satisfaction.
- 55329. Dec. 15—Amending Order No. 55207 to provide for four automatic bells and wigwags.
- 55330. Dec. 14—Approving traffic agreement between the Bell Telephone Co. and the Eastern Townships Telephone Co.
- 55331. Dec. 15—Authorizing the Rural Municipality of Bjorkdale No. 426 to construct a highway crossing over the C.N.R. between Secs. 17 and 20, 44, 12, W2M, Saskatchewan.
- 55332. Dec. 15—Authorizing the C.N.R. to construct highway crossing at Main St., Geraldton, Ont.
- 55333. Dec. 15—Authorizing the C.N.R. to operate bridge at mileage 71·6 Coronado Subdv.
- 55334. Dec. 15—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Walkerton Subdv.
- 55335. Dec. 15—Requiring the C.P.R. to install double bells and wigwags at crossing of Highway No. 17 east of Pembroke, Ont.
- 55336. Dec. 16—Slightly amending Order No. 54768 dated Aug. 31, 1937, *re* C.N.R. crossing at mileage 10·31 Midland Subdv.

- 55337. Dec. 17—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the C.N.R. under Sec. 3.
- 55338. Dec. 17—Authorizing the C.N.R. to cross Michigan Ave. and Alexandra Ave., Point Edward, Ont., with temporary siding.
- 55339. Dec. 16—Refusing application of Antonio Fabi for protection at private crossing of roadway by the C.N.R. near Lennoxville, Que.
- 55340. Dec. 20—Cancelling rates on absorption gasoline for refining and reshipment, published in Item 7-B in Supplement No. 45 to C.P.R. Tariff C.R.C. No. W-2987, etc., and amending Item 44-C in Supplement No. 45 to C.P.R. Tariff C.R.C. No. W-2987, and Item 33-B in Supplement No. 32 to C.N.R. Tariff C.R.C. No. W-735.
- 55341. Dec. 17—Declaring the C.P.R. crossing at mileage 44·38 Lachute Subdv., protected to Board's satisfaction.
- 55342. Dec. 18—Relieving the Northern Alberta Railway Co. from maintaining speed limitation of twenty-five miles an hour over its line of railway between mileage 0 and 130·8, Edmonton to Smith, Alta.
- 55343. Dec. 18—Approving abandonment of C.N.R. Stoneham Branch, from Loretteville to Stoneham, Que.
- 55344. Dec. 17—Requiring the C.N.R. to install bell and wigwag crossing protection at mileage 80·15 Alexandria Subdv.
- 55345. Dec. 18—Granting leave to Dominion Atlantic Railway Co. to remove its station agent at Tupperville, N.S., etc.
- 55346. Dec. 16—Authorizing C.N.R. to operate under bridge over Bridge St., Bromptonville, Que., etc.
- 55347. Dec. 20—Declaring the C.P.R. crossing at mileage 18·20 Saint John Subdv. protected to Board's satisfaction.
- 55348. Dec. 20—Declaring the C.N.R. crossing at mileage 53·51 St. Quentin Subdv. protected to Board's satisfaction.
- 55349. Dec. 20—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55350. Dec. 20—Authorizing the C.N.R. to reconstruct subways under their tracks at Main and D'Arcy Streets, Emerson, Man.
- 55351. Dec. 20—Authorizing the C.P.R. to remove station shelter at McConkey, Ont.
- 55352. Dec. 22—Declaring the C.P.R. crossing at mileage 133·4 Carmi Subdv. protected to Board's satisfaction.
- 55353. Dec. 21—Authorizing the Dominion Atlantic Railway Co. to remove station agent at Wilnot, N.S., a non-telegraph agent to be appointed.
- 55354. Dec. 20—Authorizing the New York Central Railroad Co. to rearrange signals at crossing of the C.N.R. by its line of railway at Cecile Junction, Que.
- 55355. Dec. 20—Approving proposed changes to interlocking plant at crossing of the C.N.R. by the C.P.R. at Watson, Sask.
- 55356. Dec. 20—Approving plan showing details of overhead bridge constructed across the C.N.R. and Trout Creek at Red Rock, Ont.
- 55357. Dec. 20—Approving proposed changes to interlocking plant at crossing of C.N.R. by the C.P.R. near Wadena, Sask.
- 55358. Dec. 21—Approving proposed changes to interlocking plant at crossing of the C.N.R. by the C.P.R. at Reford, Sask.
- 55359. Dec. 21—Authorizing the London & Port Stanley Railway Co. to remove existing crossing signal at Stop 22, 2nd Con., Township of Yarmouth, Ont., etc.
- 55360. Dec. 21—Declaring that the C.P.R. in accepting freight shipments of pool cars made up by the C.P. Express Co., is not contravening the provisions of Rule 12 of the C.F.C.
- 55361. Dec. 22—Declaring the C.N.R. crossing at mileage 39·8 Newmarket Subdv., protected to Board's satisfaction.
- 55362. Dec. 22—Declaring the Vancouver & Lulu Island Railway crossing of 6th Avenue and Maple Street, Vancouver, B.C., protected to Board's satisfaction.
- 55363. Dec. 22—Declaring the C.N.R. crossing near mileage 30·0 Harte Subdv., protected to Board's satisfaction.
- 55364. Dec. 24—Approving special contract for release of responsibility in connection with the movement of paper mill rolls, while transported in heated cars during cold weather (C.N.R.).
- 55365. Dec. 22—Authorizing the C.N.R. to operate over subway constructed on Highway No. 31, Morrisburg, Ont.
- 55366. Dec. 21—Authorizing the C.N.R. to operate their trains over track connection of their Fergus and Brampton Subdvs. at Guelph Junction, Ont.
- 55367. Dec. 22—Declaring the C.P.R. crossing, third west of Magog Station, Que., protected to Board's satisfaction.
- 55368. Dec. 22—Declaring the C.P.R. crossing at mileage 63·73 Cartier Subdv. protected to Board's satisfaction.
- 55369. Dec. 22—Approving detail plans of subway on 7th Line Road at Oakville, Ont. (C.N.R.).

- 55370. Dec. 22—Authorizing the C.P.R. to construct branch line to serve Public Abattoir Ltd., St. Boniface, Man.
- 55371. Dec. 23—Declaring the C.N.R. crossing, first east of Lancaster Station, Ont., protected to Board's satisfaction.
- 55372. Dec. 23—Declaring the Sydney & Louisburg Railway crossing, first west of Sydney Junction, N.S., protected to Board's satisfaction.
- 55373. Dec. 28—Relieving the Nipissing Central Railway Co., from maintaining a signalman and authorizing it to operate its trains over crossing of C.N.R. at Rouyn, Que., without stopping, until C.N.R. service is resumed.
- 55374. Dec. 27—Declaring the C.N.R. crossing at mileage 18·4 Coronado Subdv. protected to Board's satisfaction.
- 55375. Dec. 27—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55376. Dec. 27—Authorizing the C.P.R. to construct a road diversion in SW $\frac{1}{4}$ of Sec. 5, and to close, within the limits of its right of way the portion of road allowance so diverted between the SE $\frac{1}{4}$ of Sec. 6 and SW $\frac{1}{4}$ of Sec. 5, all in Township 22, Range 31, West Prin. Meridian, Sask.
- 55377. Dec. 24—Authorizing the Dept. of Public Works for British Columbia to construct a level crossing of C.N.R. at mileage 31·66 west of Pacific, B.C.
- 55378. Dec. 24—Slightly amending Order No. 55227 dated Nov. 24, 1937, directing C.P.R. to erect gates on each side of Dundas St. crossing, Galt, Ont.
- 55379. Dec. 24—Declaring the C.P.R. crossing of Kathleen St., Sudbury, Ont., protected to Board's satisfaction.
- 55380. Dec. 28—Authorizing the C.P.R. to operate bridge over the C.N.R. and Trout Creek, at Red Rock, Ont.
- 55381. Dec. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55382. Dec. 28—Declaring the C.N.R. crossing of Dawson Road, St. Boniface, Man., protected to Board's satisfaction.
- 55383. Dec. 28—Approving By-law No. 229 of the City of Drummondville, Que., prohibiting use of whistle and bell on locomotives.
- 55384. Dec. 28—Declaring the Toronto, Hamilton & Buffalo Railway crossing at mileage 11·76 Welland Subdv. protected to Board's satisfaction.
- 55385. Dec. 29—Declaring the C.P.R. crossing just east of Fairville Station, N.B., protected to Board's satisfaction.
- 55386. Dec. 30—Granting leave to the C.N.R. to file, on one day's notice, a supplement to their Tariff C.R.C. No. E-2655, to correct certain errors.
- 55387. Dec. 29—Declaring the C.N.R. crossing at mileage 121·62 Sherbrooke Subdv. protected to Board's satisfaction.
- 55388. Dec. 29—Declaring the C.N.R. crossing at mileage 5·25 Welland Subdv. protected to Board's satisfaction.
- 55389. Dec. 29—Approving relocation of two branch lines of railway to serve Imperial Oil Ltd. at Calgary, Alta (C.P.R.).
- 55390. Dec. 29—Declaring the Dominion Atlantic Railway crossing at St. Anthony St., Annapolis Royal, N.S., protected to Board's satisfaction.
- 55391. Dec. 28—Authorizing the C.N.R. to reconstruct railway bridge over Generaska River at Port Hope, Ont.
- 55392. Dec. 29—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55393. Dec. 29—Authorizing the C.P.R. to operate its trains over subway on James St., Fort William, Ont.
- 55394. Dec. 29—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under Sec. 9.
- 55395. Dec. 29—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under Sec. 9.
- 55396. Dec. 30—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.N.R. under Sec. 3.
- 55397. Dec. 29—Approving clearances at siding serving Sherwin-Williams Company of Canada, Ltd., at Point St. Charles, Que. (C.N.R.).
- 55398. Dec. 30—Authorizing the Dept. of Highways for Ontario to construct a level crossing over the C.P.R. Company's Nipigon Subdv. near Red Rock, Ont.
- 55399. Dec. 30—Authorizing the Rural Municipality of Biggar No. 347, Sask., to close the crossing of the C.N.R. at mileage 3·1 Unity Subdv.
- 55400. Dec. 30—Declaring the C.N.R. crossing at mileage 2·23 Dartmouth Subdv. protected to Board's satisfaction.

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The Board of

Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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In the matter of the question of protection to be provided at the crossings of Caradoc, Metcalfe, Oxford, Victoria and Richmond Streets, in the town of Strathroy, Ontario, by the line of the Canadian National Railways.

Files Nos. 13157, 26765.145, 26765.147, 20127 and Case 4795.

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

In the matter of the protection at Caradoc street, Metcalfe street, Oxford street, Victoria street and Richmond street, all in the town of Strathroy, in the county of Middlesex, which streets cross the tracks of the Canadian National Railways.

This matter was considered by the Board at Strathroy on November 26, 1937, in the presence of counsel for the town of Strathroy and for the Canadian National Railways.

While there have been complaints in regard to each of the above-mentioned streets, it became apparent that the same questions were involved in regard to all of them so that the whole question of protection at these streets was considered at this hearing.

The main line of the Canadian National Railways passes through the town of Strathroy and there are a great many train movements over the said streets each day, and a number of the trains are through trains which do not stop at Strathroy station. Complaints have been made at various times in regard to the above railway crossings and by Order of the Board, No. 10769, dated June 1, 1910, a speed limit was imposed upon all train movements across these streets of ten miles per hour. By a further order of the Board, No. 29368, dated February 10, 1920, it was ordered that the railway company maintain watchmen at the crossings at Metcalfe and Caradoc streets, daily, between the hours of 6 a.m. and 10 p.m., and that the cost of maintaining such watchmen be paid in the proportions of 60 per cent by the railway company and 40 per cent by the town of Strathroy. This order, however, was rescinded by Order No. 29563, dated April 23, 1920, and the said Order No. 10769, fixing the speed limit, was continued in effect with a further provision providing a penalty of \$25 upon the railway company for each and every failure to comply with the said Order No. 10769.

The record of accidents in regard to some of these crossings is serious. Three accidents have occurred at the crossing of Caradoc street in which three persons have been killed and nine injured, while at the crossing at Metcalfe street two accidents have occurred in which two people were killed. In addition to the above, there has been a number of accidents involving destruction of property but not resulting in personal injury.

From the evidence submitted there can be little doubt that the railway company is not maintaining the speed limit of 10 miles per hour prescribed by the above Order of the Board. The Chief of Police of the town of Strathroy gave evidence upon this point showing actual tests which he had made of the speed of trains over the various crossings, but in addition to this the Board caused a record to be made by one of its Division Engineers during the month of November last, and this test showed train movements over the above crossings at various speeds running from 13 miles to 30 miles per hour. The actual speed tests at the various streets were as follows:—

16, 21, 13, 14, 15, 21, 26, 20, 30, 15, and 18 miles per hour,

which establishes rather conclusively that the railway company is not maintaining the speed limit prescribed by the said Order. Counsel for the railway company stated that the company had given express instructions to all engine crews that the 10 miles per hour Order should be observed upon all occasions, but he also pointed out the difficulty experienced by an engineer when he is travelling at 65 miles an hour to reduce the speed to 10 miles an hour, and he alleged that the railway company was doing its best to see that the above Order was enforced. However, I assume from the test made by the Chief of Police of Strathroy, and also from the test made by the Board's Division Engineer, that as a matter of fact the speed limit is being exceeded to a very large extent.

Both Caradoc and Metcalfe streets form part of the highway system of the county of Middlesex and are under the jurisdiction and control of that county. Oxford, Victoria and Richmond streets are all under the jurisdiction of the town of Strathroy. My colleagues and myself had an opportunity of viewing the five railway crossings above referred to. At the present time they are entirely unprotected, and at some of these crossings the view of approaching trains is obscured by buildings. Approximately two-thirds of the population of Strathroy reside on the north side of the railway tracks and one-third on the south side. The main public school is situated on the south side of the railway on Victoria street almost immediately south of the tracks, which are crossed daily by many school children. There is another public school on Colbourne street, and the high school is located on the hill on the north side of the track. Children residing on the south side of the track and attending the high school cross the tracks three or four times a day.

In my opinion, all of the above railway crossings may well be considered dangerous and some form of protection should be provided. Counsel for the town of Strathroy intimated that the municipality was not prepared to contribute any amount towards the erection of protective devices at these crossings, but that the town authorities would be prepared to share a fair amount of the maintenance of such protection. The county of Middlesex was not represented at the hearing, as it was not known prior to the hearing that Caradoc and Metcalfe streets were under the jurisdiction of the county. However, since the hearing, the county of Middlesex through its solicitors has notified the Board that the county will be prepared to contribute towards the cost of protective devices upon the basis stated in the letter of the county solicitors.

I think all of these five crossings should be protected as far as possible, and the form of protection suggested by the railway company, and which I would approve, is double bells and wig-wags at each crossing to be operated manually and automatically. The railway officials furnished an estimate of the cost of

the erection of such protection. This estimate shows the total cost at \$21,000. I think under all the circumstances the Board would be warranted in recommending a payment of 70 per cent of this cost from Parliamentary Vote No. 357 of 1937-38, not to exceed in all the sum of \$14,700, and that the balance of the said cost be paid by the Canadian National Railways, the county of Middlesex and the town of Strathroy in the following proportions: 50 per cent of the balance by the Canadian National Railways, 25 per cent of such balance by the county of Middlesex, and the remaining 25 per cent by the town of Strathroy. Since the hearing of the matter, the town of Strathroy and the county of Middlesex have each through their respective solicitors agreed to the payment of the above proportions.

In regard to the future maintenance, I think the railway company should bear the largest portion. It is estimated by officials of the railway company that the maintenance of protection at these five crossings will be \$2,000 per year. The railway company will be relieved of the inconvenience and delay attendant under the present speed limitation, and it may also be relieved of future liability for damages by the elimination of accidents at these crossings through the operation of the bells and wig-wags. I think the municipalities should each contribute to the cost of maintenance, and I would fix the amount to be paid by the county of Middlesex at \$250 per year, and the amount to be paid by the town of Strathroy at \$250 per year. The balance of the maintenance should be paid by the railway company.

The Order should provide that the double bells and wig-wags should be erected at the crossings of the above streets not later than May 1, 1938.

December 20, 1937.

The Assistant Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55459

In the matter of the crossings of Caradoc and Metcalfe Streets, in the County of Middlesex, and Oxford, Victoria, and Richmond Streets, in the Town of Strathroy, all in the Province of Ontario, on the Strathroy Subdivision of the Canadian National Railways; and the consideration of the question of the protection to be provided at the said crossings.

Files numbered 13157, 20127, 26765.145, 26765.147, and Case No. 4795

MONDAY, the 17th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

G. A. STONE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held in Strathroy, November 26, 1937, in the presence of Counsel for the Town of Strathroy and the Canadian National Railways, and what was alleged—

It is ordered:

1. That the Canadian National Railways be, and they are hereby, required, on or before the 1st day of May, 1938, to install double bells and wigwags at each of the crossings of Caradoc and Metcalfe streets, in the County of Middlesex, and Oxford, Victoria, and Richmond streets, in the Town of Strathroy, all in the Province of Ontario, the same to be automatic, but manually controlled during busy periods; and that the said signals be installed in accordance with the Standard Specifications for Highway Crossing Signals, approved under

General Order No. 468, dated 12th March, 1929, as amended by General Orders Nos. 521 and 553, dated respectively 2nd November, 1933, and 26th March, 1936; detail plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

2. That, with the approval of the Governor in Council by Order in Council P.C. 36, dated 12th January, 1938, seventy per cent of the cost of installing the said bells and wigwags, but not exceeding the sum of \$14,700, be paid out of the fund appropriated for the purpose under Department of Transport Vote No. 357, Special Supplementary Estimates 1937-38; and that the remainder of such cost be borne and paid as follows: Fifty per cent by the Canadian National Railways, twenty-five per cent by the County of Middlesex, and twenty-five per cent by the Town of Strathroy.

3. That the cost of maintaining and operating the said bells and wigwags be borne and paid as follows: \$250 a year to be paid by the County of Middlesex, \$250 a year by the Town of Strathroy, and the remainder by the Canadian National Railways.

4. That all switching movements on the sidings over the said crossings of Caradoc, Metcalfe, Oxford, Victoria, and Richmond streets be flagged by a member of the train crew during the period when the protective devices are operated automatically.

5. That Orders numbered 1244 dated June 27, 1906, 10769 dated June 1, 1910, 29368 dated February 10, 1920, 29563 dated April 23, 1920, 45301 dated August 28, 1930, 46809 dated June 13, 1931, 50775 dated February 16, 1934, and 54050 dated March 5, 1937, made herein, be rescinded.

H. GUTHRIE,
Chief Commissioner.

Complaint of the Vancouver Federated Ratepayers and others against flat rates for telephone service by the British Columbia Telephone Company throughout the Vancouver area.

File No. 32560.14

JUDGMENT

COMMISSIONER STONEMAN:

On June 9, 1937, the British Columbia Telephone Company submitted to the Board tariff amendments and supporting data covering a revision of telephone rates in what is described as the Greater Vancouver Area, the changes to become effective November 1, 1937. Upon careful consideration of what was submitted, the Board approved the tariff amendments without prejudice to any complaint lodged by anyone against the new charges being developed and dealt with by the Board in the usual manner.

The Vancouver Exchange Area has previously covered the territory served by the Seymour, Douglas, Trinity, Bayview, Fairmont and Highland central offices, embracing an area of approximately 23 square miles and containing around 57,000 telephone stations. As suburban areas contiguous thereto developed separate exchange areas were established from time to time to provide telephone service therein, those that are here involved being the Carleton, Fraser, Glenburn, Kerrisdale, Marpole and Point Grey (Elliott) exchanges, which, in the aggregate, contain around 15,000 stations.

Taking only the principal types of service used by the telephone subscribers in the former Vancouver Exchange Area, the net Wall Set rates per month were:

Business Individual Line.. . . .	\$ 6 60
Residence Individual Line.. . . .	3 30
Residence Two-Party Line.. . . .	2 20

For the same types of service there was a uniform monthly charge in the suburban exchanges above named within a prescribed radius of the central office, viz.,

Business Individual Line.. . . .	\$ 4 00
Residence Individual Line.. . . .	2 00
Residence Two-Party Line.. . . .	1 50

The foregoing charges permitted unlimited exchange service between subscribers within the respective exchanges. For telephone calls between the respective exchanges, there was an interexchange charge of 4 cents per call in addition to the monthly rates.

The rates within the exchanges in question, also the interexchange charge, were reviewed, considered and approved by the Board some years ago. (Volume XI, Board's Judgments and Orders, Page 216; Volume XVI, Board's Judgments and Orders, Page 37). Since that time there has not been such a change in conditions or the revenues of the Company that the Board would be justified in directing reductions therein at the present time.

I will review the main and essential points, as shown by the record, with respect to the changes made effective November 1, 1937. Some years ago, the city limits of Vancouver were extended to include the most, but not all, of the area covered by the separate suburban exchanges which have already been mentioned. As early as 1929, the elected representatives of the City of Vancouver asked the Telephone Company to consider the establishment of a uniform flat rate throughout the whole area of Greater Vancouver and do away with the charge for interexchange calls between the various exchanges. The Company stated that it was willing to do this, but, at that time, did not believe it would be satisfactory to many of the subscribers who might be termed small users, and the matter was not then pressed. However, from time to time, subsequently, the citizens were demanding that there should be a flat rate throughout the whole area. On October 13, 1936, Mr. George Miller, Acting Mayor and Chairman of Finance Committee, wrote the Company as follows:—

“During the past number of years the question of a flat rate for telephone service covering the whole city area has been up for discussion several times between the Council and your Company. No definite indication of what the new rates would amount to for the different classes of service, that is,—business and residence—has ever been arrived at. There still appears to be a considerable accumulating public demand for flat rate service and as already indicated by your Company in past discussions, you have no objection to operating under a flat rate; and, further, you have indicated that you would be pleased to undertake a comprehensive engineering study and submit rates based on this study for the consideration of the City Council.

We appreciate that such a study will take some time to complete and would ask that you undertake this and advise the Council when you are ready to discuss same. The necessary arrangements will then be made for a Committee of the Council to meet with you and submit its recommendations for consideration of the Council.

Trusting that you will give this request your early consideration and reply.”

It is obvious that the Company was not expected to adopt as a flat rate throughout the whole area either the charges applying within the former Vancouver Exchange Area or the lower charges in force within the suburban areas, because the letter states, “No definite indication of what the new rates would amount to for the different classes of service, that is,—business and residence—has ever been arrived at.” In view of what I have already stated concerning the revenues produced under the former rates, as approved by the Board, it

follows logically and reasonably that the new rates for the entire area should be such as to provide the Company with approximately the same amount of revenue as it obtained under the former rates. It is upon this basis that the matter has been dealt with.

The Company acknowledged receipt of Mr. Miller's letter, stating such a study would be made, but it would take some time. The study was completed and submitted to the Mayor of Vancouver on February 25, 1937, and it shows:

The so-called flat rate area contains the City of Vancouver, the University Endowment Lands, and a considerable portion of the Municipality of Burnaby, and enlarges the Vancouver Exchange Area from approximately 23 square miles to approximately 69 square miles. Below is shown the increase in area and stations available to subscribers without an interexchange toll charge under flat rate operation:—

Vancouver and Elliott Subscribers:—		Per Cent
Increase in calling area..		195·5
Increase in available stations..		23·5
Suburban Subscribers:—		
Average increase in calling area..		360·0
Average increase in available stations..		425·0

In other words, while subscribers in the suburban exchange areas formerly had unlimited calling service without an interexchange toll only to the subscribers within their respective exchanges, varying roughly from 1,000 to 5,000 stations, they now have unlimited calling service to approximately 72,000 stations without any interexchange toll charge. The adoption of the present service involved elimination or loss in revenue received from interexchange toll calls which, based on an analysis of one year's business, amounts to \$207,064, representing 5,176,600 calls at 4 cents each.

The removal of a charge for these calls will result in a considerable increase in the calling rate between the various exchanges; and more operators, inter-office trunks and central office equipment will, therefore, be required in every exchange in the area. The lifting of this restriction will act in a way very similar to the removal of the meter from a water service or an electric light service. There will no longer exist any reason for care in the placing of these calls, or in keeping them brief, and there will no longer be a preventative to the placing of frivolous and unnecessary calls.

The increased annual cost, taking all factors into consideration, including provision of additional cables between the different exchanges and additional central office switchboards, together with the increased operating and maintenance staffs required to operate same, will amount to a net figure of at least \$174,560; of this amount, well over \$100,000 will be for wages. It is, therefore, evident that any new schedule of rates will require to take into consideration the loss of \$207,064 of interexchange charges and the increased annual operating cost of \$174,560, a total of \$381,624. The schedule of rates proposed, as shown below, produces approximately \$4,000 short of this amount, and does not take into consideration any further possible loss through cancellation of services:—

Flat Rate Service—	Net Wall Set Rate per Month	
	Business	Residence
Individual line..	\$7 50	\$3 50
Two-party line..	6 00	2 60
Multi-party line..	6 00	2 20
Measured Rate Service—		
Individual line, first 100 or less outgoing local calls..	5 50	....
Local calls in excess of 100 per month, per call 3c.		

In addition to what is above set out, and which is not provided for by these rates, the cost to the Company in making these changes is around \$50,000, covering the expense of training new operating staff, clerical wages, and other expenses attendant to changing records involving 70,000 stations, and this has to be taken care of by the Company in the year in which the change is made.

Concerning the question whether these rates had been equitably apportioned between the business and residence subscribers, the following information was supplied:—

	Per Cent
FORMER RENTAL AND INTEREXCHANGE REVENUE—	
Paid by business subscribers..	44·03
Paid by residence subscribers..	55·97
PROPOSED FLAT RATE RENTAL REVENUE—	
Paid by business subscribers..	43·14
Paid by residence subscribers..	56·86

Following the submission of the company's proposals, they were considered by the city's Harbours, Utilities and Airport Committee. This committee directed the City Engineer and the City Electrician to investigate the company's proposals, and these officials, after an examination of the company's books and records, reported that the figures submitted by the company were verified by their check. There was then published in the local press on May 4, 6 and 8, comprehensive information regarding the flat rate service, with the object of ascertaining the feeling of telephone subscribers with respect thereto, and they were invited to express their opinions in writing, addressed to the City Clerk. The result of this notice in the newspapers was as follows:—

Total number of subscribers in flat rate area—53,214=100 per cent (Total number of phones 72,187).			
Total number of letters received by City Clerk..	431=81/100	of 1 per cent	
Against..	297=56/100	of 1	"
In favour..	75=14/100	of 1	"
Conditionally in favour..	44= 8/100	of 1	"
Total in favour..	119=22/100	of 1	"
No telephone number or not signed..	15= 3/100	of 1	"

Later, at a meeting of the Vancouver City Council, the Council adopted the following recommendation of the Harbours, Utilities and Airport Committee:—

"Be it resolved that this Committee is in favour of the introduction of a system of flat rates for telephone users in the City of Vancouver, and

Further be it resolved that while this Committee has no authority to speak for telephone subscribers as such, nevertheless it feels that in the existing circumstances the offer to introduce such a system on the terms outlined in the letter of J. Hamilton, Vice-President and General Manager of the B.C. Telephone Company, dated February 25, 1937, to His Worship the Mayor, appears to be as favourable an offer as can be expected at this time; and that the B.C. Telephone Co. be asked to file and obtain the authority to inaugurate the tariff submitted in its letter referred to herein."

The following table indicates the effect of the proposed rates as compared with the former rates on the monthly accounts of subscribers in the present Vancouver Exchange Area:—

	% of Total Subscribers	Cumulative Percentage
Percentage of monthly accounts decreased or unchanged..	23.6	23.6
Percentage of monthly accounts increased		
\$.01 to \$.10..	4.1	27.7
.11 " .20..	8.8	36.5
.21 " .30..	9.7	46.2
.31 " .40..	32.8	79.0
.41 " .50..	3.5	82.5
.51 " .75..	8.5	91.0
.76 " 1.00..	5.6	96.6
1.00 and over..	3.4	100.0

On June 6, a letter was addressed to the Board by Mrs. A. L. Rowan, secretary of the Vancouver Federated Ratepayers, quoting a resolution passed at a meeting of a number of telephone subscribers, to the effect that they were opposed to the proposed rates or any increase in telephone rates until it is proved that such an increase is justified. In this letter, request was made that they be given ample time to prepare a brief in opposition to the rate of \$2.60 per month for residence two-party line. Mrs. Rowan was furnished with information as to the manner in which complaints or applications to the Board should be prepared and submitted. No further submissions were received from Mrs. Rowan.

It appears that the type of service regarding which there is most concern is that of residence two-party line, which is used by over 65 per cent of the total subscribers in this area. Further discussions later took place between representatives of the company, the Mayor of Vancouver, and the Vancouver Federated Ratepayers, and the company was urged to agree to a rate of \$2.50, instead of \$2.60, per month for two-party residence service, on the basis of a gesture of good will on the part of the company, and that this rate be tried out for a reasonable period. The company consented, and its tariff was amended accordingly, and the Board's approval thereto given. On October 8, the secretary of the Vancouver Federated Ratepayers wrote the Board stating that, in view of this change in rate, any opposition contemplated by that organization was withdrawn.

This reduction in rate, based on the number of subscribers as at October 20, 1937, means a loss in revenue to the company of \$44,784 per year, so that, based on the same types of service and the same number of subscribers, the present tariff falls by approximately \$49,000 per year to bring the company the same revenue as it obtained under the former rates.

On October 7, Mr. Geo. Buscombe, President, Ratepayers Association, Ward One, Vancouver, wired the Board that petitions were being circulated protesting increased telephone rates; that they had been signed by over 20,000 subscribers; that the president and secretary of the Vancouver Federated Ratepayers had, without authority, undertaken to speak for the ratepayers; and requesting that no rate be fixed until full opportunity was afforded various public bodies to have the facts developed in public hearing before the Board at Vancouver. A letter of same date was received from Mr. G. F. H. Long, Barrister, Vancouver, along similar lines to the telegram just referred to. On October 9, a letter was written by the secretary of the Vancouver Federated Ratepayers to the city clerk, Vancouver, and copy sent the Board, stating that, at a meeting held on October 8 to consider the committee's report concerning the rate of \$2.50 for a two-party residence telephone, which the committee had agreed was fair and equitable, a resolution was passed to the effect that the Federated Ratepayers Association go on record as not satisfied with the offer made by the company.

The matter of telephone rates in the Vancouver area was accordingly listed for hearing at a sittings of the Board in Vancouver on November 8, in order that representations with respect thereto might be made by any parties interested.

Representations were made by Mrs. A. L. Rowan and Messrs. Harley Reid, E. F. Robinson and James Corkill for the Vancouver Federated Ratepayers; Mr. Geo. Buscombe for Ward 1 Ratepayers Association; Mr. F. C. Christian, counsel for signatories to the petition; Mr. W. R. Bradbury, organizer of the petition; and counsel for the company.

So far as concerns the Vancouver Federated Ratepayers, it appears that there was a meeting of that organization at which there was a difference of opinion regarding this matter, some withdrawing their opposition to the present rates, others not being satisfied, and a committee was appointed to appear before the Board in opposition to the rates, and Messrs. Reid, Robinson and Corkill appeared in this capacity. Mrs. Rowan, secretary of the organization, stated that a committee, of which she was chairman, had made a careful study of the company's proposals, also obtained information regarding telephone rates in different cities of the United States and Canada, and were satisfied as to the reasonableness of the \$2.50 rate for residence two-party lines, which is the only type of service that they had considered or dealt with.

Messrs. Reid and Robinson admitted quite frankly that they had not made an analysis or study of the data based on which the change was made; that they have really no knowledge whatever concerning telephone costs or what constitutes a reasonable telephone rate. Mr. Christian's position was practically the same. While, therefore, these various representatives opposing the present rates had very little knowledge of the subject, they had formed certain opinions which they placed before the Board. I will summarize these and comment briefly upon them.

Reference was made to a comparison given by the company of telephone rates in Vancouver and other cities in Canada and the United States, indicating the reasonableness of the Vancouver rates. It may be here stated that the Board's approval of the company's tariff was not in any way based on this comparison. It was stated that this comparison was very misleading, because in different cities different conditions prevail; that in Vancouver, for example, the telephone company charges for telephones furnished for the police, fire and other departments of the city an amount equal to the taxes that it pays to the city, whereas, in other cities where comparisons were taken from, that service is given free. No proof was furnished that telephone service is supplied without charge in the other cities, and it is within our knowledge that this is not a fact in any Canadian city with respect to any telephone company that is subject to the Board's jurisdiction. Mr. Bradbury stated the city pays approximately \$46,000 per year for the telephone service it uses. Counsel for the company stated it paid the city for taxes in 1936 \$62,000. Unless, of course, it were shown that the company's rates are unduly high and its earnings excessive, also that there is some reason why the city should receive free telephone service—and there is no such showing here—if the company furnished the city annually with \$46,000 worth of telephone service without charge, obviously this would be obtained at the expense of the other subscribers to telephone service.

It was suggested that it is necessary to abolish toll charges between exchanges before automatic telephones could be used in Vancouver and the opinion expressed that this was the reason for the establishment of a flat rate throughout the whole area. What has been herein set out as to the reason for the changes refutes this suggestion; further, it is not a fact that automatic telephones could not be used under the toll system in effect prior to November 1.

The opinion was advanced that the company purchases materials from a subsidiary company at an increased price over which they could be bought in the open market. No company was named, nor any evidence whatever furnished in support of this opinion.

It was suggested that a rate of \$2 per month, in place of \$2.50, for a residence two-party line would be a reasonable rate and profitable to the company by reason of the additional subscribers that would be obtained under

such a rate; that volume would take care of the profits. It is, of course, purely a matter of speculation concerning new subscribers under a lower rate. Telephone usage in Vancouver is already very highly developed. There are more telephones in the city of Vancouver, per unit of 100 population, than any place in the British Empire, and there are only four places in the world where there are more telephones per 100 people of the city's population than in Vancouver, viz., Washington, D.C., San Francisco, Calif., Stockholm, Sweden, and Denver, Colo. The average citizen does not appreciate and understand that in the telephone business volume does not take care of profits. The cost of providing telephone service increases greatly with an increase in the number of stations served, particularly in areas where there are several central offices. For example, new exchanges or central offices have to be provided for from time to time at a very large cost. A greater number of additional trunk lines between exchanges or central offices are needed. Switchboard construction is much more elaborate and expensive. Operating cost is greater. There is increased maintenance, an item of very large expense in the telephone business. Every line added to a telephone system requires the addition of central office equipment to every other line in the exchange, so that the new line may be connected to any one of the existing lines. This is why the telephone rates are higher in the city with 100,000 stations than in a city with 50,000 stations, and why the rate in the latter city is, in turn, higher than that in a city with 20,000 stations. Based on the existing number of subscribers and the same type of service, a reduction in the residence two-party line rate from \$2.50 to \$2 per month would result in a loss of revenue to the company of \$223,920 per year. In 1936, after deducting all expenses, taxes, depreciation, interest on bonds and dividends, the company had a balance, or earned surplus, of \$23,872.31, and its total earned surplus as at December 31, 1936, was \$454,028.39, so that it will be readily apparent that the rate suggested would, in approximately two years' time, entirely wipe out this surplus. The Board has recognized that telephone companies are entitled to a reasonable surplus, so as to be placed in such a position that additional capital may be obtained for necessary extensions. An amount representing 2 per cent of the total value of the plant was determined as reasonable in the case of this company, (Vol. XI, Board's Judgments & Orders, Page 216). The company's earned surplus is below this figure.

It was admitted by these protestants that the present arrangement offers a good many advantages; that it will benefit subscribers who made frequent calls between the various exchanges; that it will be a better service; that it will increase the use of the telephone service, because many subscribers had denied themselves the adequate use and convenience of the telephone by reason of the interexchange toll charge.

Mr. W. R. Bradbury was the organizer of the petition containing approximately 20,000 signatories. He stated they were all telephone subscribers; that he had had the assistance of about 30 canvassers. The petition is headed

"TO THE BOARD OF RAILWAY COMMISSION

We the undersigned telephone subscribers in Vancouver, B.C., hereby petition you as follows:

Whereas the B.C. Telephone Company are about to raise the residential telephone rates from \$2.20 per month to \$2.60 per month and abolish the toll system; we believe it is not necessary to raise these rates, and petition you to make the residential party telephone \$2.20 per month in all Greater Vancouver, and abolish the toll system."

It will be noted reference is made to an increase in the monthly charge for residence telephones from \$2.20 to \$2.60. Subsequent to the signing of the petition by many of the people, the rate was modified from \$2.60 to \$2.50, but Mr. Bradbury contended that would not have had any bearing upon the signing

of the petition, and that many signatures were obtained after this change in rate was announced. To the extent that subscribers formerly paid interexchange toll charges—which are now eliminated—in addition to their local exchange rate of \$2.20, the increase is not from \$2.20 to \$2.60 or \$2.50, so that the wording of the petition is not correct and it is misleading.

In Mr. Bradbury's case, the accounts show that, during a period of eight (8) months, his telephone bill for interexchange calls averaged 21 cents per month, or a total monthly bill of \$2.41, as compared with the present rate of \$2.50, so that it represents an increase of 9 cents per month, or \$1.08 per year.

We do not know what representations were made to the signers of the petition by the canvassers who approached them, but it seems quite clear from what is later set out herein with respect to this petition that, in a great many cases, both the canvassers and the signers entirely misunderstood the situation.

Further, Mr. Bradbury himself had printed and circulated a great number of copies of a document headed "Petition against increased telephone rates," and addressed to "Mr. and Mrs. Telephone Subscriber," which contained incorrect and misleading statements. This document tells the subscriber that he will pay an additional \$3.60 per year for a residence two-party line and an additional \$10.80 per year for business telephone. These amounts will be reduced to the extent of the amount of the former interexchange calls at 4 cents each made by the subscriber. When asked if he had obtained figures from the subscribers showing what they had formerly paid as compared with the present rate, Mr. Bradbury replied in the negative, stating he had not taken the interexchange calls into consideration, because the subscribers "never used that, and they had no occasion to use it," (Page 3248). This, of course, is refuted by the fact that the subscribers made over 5,000,000 such calls per year, amounting in charges paid to \$207,064. Other incorrect and misleading statements are contained in this document, but we do not consider it necessary to deal further with it.

To make a complete check of the petition was a task of too great magnitude. The total number of signatures on the petition is 19,861. A check of every 10th page of the petition shows a total of 1,906 signatures. Out of this total of 1,906, there were found the following irregularities:

Incomplete signature—firm name or last name only given..	35
Individuals signing who did not have telephone service..	72
Individuals signing who were not subscribers to service but whose names appear in the company's directory as "extra listings".....	7
Signatures which do not correspond with the handwriting on the contract cards which cover the original application of the subscribers as listed in the directory..	661
Total Irregularities.....	775—40.7%

A further check of 10 per cent of the signatories to the petition shows that over 16 per cent of them received decreases under the new rates averaging 41 cents per month, or \$4.92 per year. If the 40 per cent irregularities are added, it shows that 23 per cent of the subscribers in general received decreases under the new rates. Based on an analysis of 10 per cent of the petition, there is attached hereto Appendix "A" showing subscribers who signed the petition but who received decreases under the new rates. Obviously, the subscriber whose charges are decreased by the amount shown in the last right-hand column signed the petition under a misunderstanding or based upon incorrect and misleading information furnished him. It will be noted that many of the signers of the petition receive decreases in telephone charges of very substantial amounts, many over \$10 per year, several \$15 or over, one \$21.60, one \$22.44, one \$26.64, and one \$69.

The change made effective November 1st was a rearrangement of the system of providing telephone service in the Greater Vancouver area and the establishment of appropriate rates for the new type of service. It seems clear that the change was made following a public demand for it. The Board, after careful consideration of all that was submitted, approved the tariff amendments of the company, and nothing was brought out during the public hearing in Vancouver that indicates that the present rates are unreasonable. In constructing telephone rates anywhere, the question of average enters to a great extent. The man who makes but little use of his telephone is bulked up with the man who makes a large use of his telephone while paying the same rate. The man who uses his telephone facilities to a slight extent is aiding in paying for the facilities enjoyed by the man who makes constant use of his telephone. This is an anomaly inseparable from a flat rate system. It may not be any comfort to a man who will pay a little more under the present rates than formerly that another man will pay less, but such a condition cannot be avoided under a revision of service of the character here made.

The complaints will be dismissed.

OTTAWA, ONTARIO, December 31st, 1937.

Commissioner Stone concurred.

APPENDIX "A"

EXAMPLES OF SUBSCRIBERS WHO SIGNED PETITION BUT WHO RECEIVED
DECREASES UNDER FLAT RATE

CARLETON

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-ex. Tolls Nov. 1-20	Total		
165	130 X 2	\$ 2.50	\$ 1.06	\$ 3.56	\$ 3.20	\$.08	\$ 3.28	\$.28	\$ 3.36
165	445 R 3	2.75	.75	3.50	3.45	.....	3.45	.05	.60
165	870 R 1	2.50	.79	3.29	3.20	.....	3.20	.09	1.08
165	959 R 1	2.50	1.51	4.01	3.20	.....	3.20	.81	9.72
165	1752 L 1	2.50	.93	3.43	3.20	.....	3.20	.23	2.76
505	1757 L	2.50	1.52	4.02	3.50	.....	3.50	.52	6.24

ELLIOTT

85	903	5.05	.47	5.52	4.50	.04	4.54	.98	11.76
	906	5.55	.28	5.83	4.90	.....	4.90	.93	11.16
97	915 R	3.70	.14	3.84	3.50	.....	3.50	.34	4.08
	920	5.80	.59	6.39	4.90	.24	5.14	1.25	15.00
	962 L	4.45	.11	4.56	3.75	.....	3.75	.81	9.72
	963 L	3.95	.01	3.96	3.75	.....	3.75	.21	2.52
97	983 L	3.45	.....	3.45	Service discontinued.		3.50	.25	3.00
195	1020 L	3.70	.05	3.75	3.50	.....	3.50	.25	3.00
85	1029 X	3.95	.43	4.38	3.50	.....	3.50	.88	10.56
	1034 L	4.20	.04	4.24	3.75	.....	3.75	.49	5.88
195	1036 Y	3.70	.04	3.74	3.50	.04	3.54	.20	2.40
195	1038 Y	3.45	.31	3.76	3.50	.....	3.50	.26	3.12
	1040 L	4.45	.01	4.46	3.75	.....	3.75	.71	8.52
195	1045 R	3.70	.13	3.83	3.50	.....	3.50	.33	3.96
	1049 L	3.95	.58	4.53	3.50	.04	3.54	.99	11.88
85	1055	6.05	.20	6.25	5.25	.04	5.29	.96	11.52
195	1058	5.05	1.35	6.40	4.75	.....	4.75	1.65	19.80
	1067 X	3.95	.04	3.99	3.75	.....	3.75	.24	2.88
97	1072 X	3.95	.14	4.09	3.75	.....	3.75	.34	4.08
	1077 L	5.20	.41	5.61	4.65	.....	4.65	.96	11.52
195	1079 R	3.45	.08	3.53	3.50	.....	3.50	.03	.36
	1214 R	3.45	.06	3.51	3.50	.....	3.50	.01	.12
	1218 Y	3.45	.18	3.63	3.50	.....	3.50	.13	1.56
	1225 L	4.45	.....	4.45	3.50	.....	3.50	.95	11.40
195	1229 L	3.45	.26	3.71	3.50	.....	3.50	.21	2.52
355	1232 R	3.95	.03	3.98	3.50	.....	3.50	.48	5.76
195	1242 L	3.95	.32	4.27	3.75	.....	3.75	.52	6.24
625	1273 L	4.45	.35	4.80	3.50	.....	3.50	1.30	15.60
195	1288 R	3.70	.10	3.80	3.50	.....	3.50	.30	3.60
	1296 Y	3.70	.32	4.02	3.50	.....	3.50	.52	6.24
195	1297 R	3.95	.42	4.37	3.90	.....	3.90	.47	5.64
85	1307	5.05	.32	5.37	4.50	.....	4.50	.87	10.44
97	1324 L	3.70	.77	4.47	3.50	.08	3.58	.89	10.68

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-ex. Tolls Nov. 1-20	Total		
625	1325 X	\$ 3.45	\$.10	\$ 3.55	\$ 3.50	\$	\$ 3.50	\$.05	\$.60
85	1334 R	4.20	.28	4.48	3.50	.....	3.50	.98	11.76
85	1335 L	4.20	.10	4.30	3.50	.....	3.50	.80	9.60
195	1335 R	4.20	.07	4.27	3.50	.....	3.50	.77	9.24
	1346 R	3.45	.10	3.55	3.50	.....	3.50	.05	.60
	1360 R	3.70	.14	3.84	3.50	.....	3.50	.34	4.08
195	1374 Y	3.45	.16	3.61	3.50	.....	3.50	.11	1.32
	1376 R	3.95	.21	4.16	3.75	.....	3.75	.41	4.92
	1387 X	4.20	.06	4.26	3.50	.....	3.50	.76	9.12
85	1395	5.30	.32	5.62	4.50	.....	4.50	1.12	13.44
85	1400 Y	4.70	.11	4.81	3.75	.....	3.75	1.06	12.72
	1407 L	4.20	.02	4.22	3.50	.....	3.50	.72	8.64
85	1407 R	4.20	.54	4.74	3.50	.16	3.66	1.08	12.96
195	1443 Y	3.45	.37	3.82	3.50	.08	3.58	.24	2.88
	1446 R	4.20	.20	4.40	3.75	.....	3.75	.65	7.80
85	1457 R	4.45	.03	4.48	3.90	.....	3.90	.58	6.96
	1468	6.05	.33	6.38	5.10	.12	5.22	.86	10.32
	1504 L	4.45	.11	4.56	3.50	.....	3.50	1.06	12.72
195	1514 L	3.70	.19	3.89	3.50	.....	3.50	.39	4.68
85	1529 L	4.45	.62	5.07	3.50	.12	3.62	1.45	17.40
	1546 L	4.20	.23	4.43	3.50	.....	3.50	.93	11.16
195	1549 X	3.70	.05	3.75	3.50	.....	3.50	.25	3.00
195	1561 L	4.20	.01	4.21	3.50	.....	3.50	.71	8.52
	1562 L	4.70	.02	4.72	4.40	.....	4.40	.32	3.84
97	1564 L	3.70	.16	3.86	3.50	.....	3.50	.36	4.32
	1569 L	4.70	.12	4.82	3.75	.....	3.75	1.07	12.84
	1570 R	4.20	.02	4.22	3.50	.....	3.50	.72	8.64
85	1574 Y	4.20	.01	4.24	3.75	.....	3.75	.49	5.88
195	1585 L	4.45	.06	4.51	3.75	.....	3.75	.76	9.12
	1587 R	4.45	.10	4.55	4.40	.....	4.40	.15	1.80
195	1588 Y	3.45	.46	3.91	3.50	.....	3.50	.41	4.92
	1606 L	4.20	.36	4.56	3.50	.....	3.50	1.06	12.72
	1608 L	3.95	.17	4.12	3.75	.....	3.75	.37	4.44
85	1615 X	4.20	.14	4.34	3.50	.20	3.70	.64	7.68
	1617 R	4.45	.05	4.50	3.50	.....	3.50	1.00	12.00
	1622 L	4.20	.....	4.20	3.50	.....	3.50	.70	8.40
195	1624 Y	3.95	.41	4.36	3.50	.04	3.54	.82	9.84
85	1632 L	4.70	.10	4.80	3.90	.04	3.94	.86	10.32
	1650 L	4.20	.02	4.22	3.50	.....	3.50	.72	8.64
295	1718 L	3.70	.03	3.73	3.50	.....	3.50	.23	2.76
85	1719 L	4.20	.53	4.73	3.50	.....	3.50	1.23	14.76
97	1751 L	3.70	.03	3.73	3.50	.....	3.50	.23	2.76
85	1761 R	4.20	.06	4.26	3.50	.....	3.50	.76	9.12
	1768 R	4.45	.23	4.68	3.75	.....	3.75	.93	11.16
	1784 R	4.20	.18	4.38	3.50	.....	3.50	.88	10.56
	1795 L	3.95	.48	4.43	3.50	.56	4.06	.37	4.44

FRASER

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-ex. Tolls Nov. 1-20	Total		
355	242 R 3	\$ 2.50	\$.75	\$ 3.25	\$ 3.20	\$	\$ 3.20	\$.05	\$.60
175	320 L 2	2.50	1.42	3.92	3.20	.....	3.20	.72	8.64
175	577 L	2.50	1.09	3.59	3.50	.04	3.54	.05	.60
75	626 Y 3	2.50	1.11	3.61	3.20	.....	3.20	.41	4.92
385	818 L	2.50	1.82	4.32	3.50	.....	3.50	.82	9.84
385	973 Y	2.50	1.40	3.90	3.50	.....	3.50	.40	4.80
75	988 R 3	2.50	1.27	3.77	3.20	.....	3.20	.57	6.84
75	1062 Y	2.50	1.15	3.65	3.50	.....	3.50	.15	1.80
385	1110 R	2.50	1.66	4.16	3.75	.12	3.87	.29	3.48
75	1118	5.00	.....	5.00	4.50	.....	4.50	.50	6.00
385	1229 L	2.50	1.12	3.62	3.50	.....	3.50	.12	1.44
175	1380 R	2.75	1.05	3.80	3.50	.....	3.50	.30	3.60
5	1447 X 2	2.50	1.20	3.70	3.20	.....	3.20	.50	6.00
385	1504 L	2.50	1.54	4.04	3.50	.....	3.50	.54	6.48
385	1720 L	2.50	1.37	3.87	3.50	.....	3.50	.37	4.44
175	1853 L	2.50	1.79	4.29	3.50	3.50	.79	9.48

GLENBURN

415	234 L	2.50	1.30	3.80	3.50	3.50	.30	3.60
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KERRISDALE

265	14 L	2.75	1.82	4.57	3.75	.12	3.87	.70	8.40
185	65	6.00	4.70	10.70	8.90	8.90	1.80	21.60
245	167	5.75	.05	5.80	5.40	.16	5.56	.24	2.88
185	193	5.00	2.03	7.03	6.50	.....	6.50	.53	6.36
435	205	5.25	.24	5.49	4.75	.32	5.07	.42	5.04
560	208 X	2.50	1.34	3.84	3.50	.....	3.50	.34	4.08
165	347 L	2.50	1.27	3.77	3.50	.....	3.50	.27	3.24
435	369	5.25	.....	5.25	4.75	.....	4.75	.50	6.00
245	479 L	2.50	1.10	3.60	3.50	.....	3.50	.10	1.20
560	497 R	2.75	1.43	4.18	3.75	.16	3.91	.27	3.24
560	518 L	2.50	1.23	3.73	3.50	.08	3.58	.15	1.80
560	608	5.50	.01	5.51	4.90	.....	4.90	.61	7.32
525	620 Y	2.75	1.23	3.98	3.75	.....	3.75	.23	2.76
625	635 L	2.50	1.42	3.92	3.50	.....	3.50	.42	5.04
435	841	5.00	.01	5.01	4.50	.....	4.50	.51	6.12
560	1017 R	2.75	2.49	5.24	3.75	.....	3.75	1.49	17.88
435	1042	5.00	.01	5.01	4.50	.....	4.50	.51	6.12
560	1049	7.25	.51	7.76	6.50	.....	6.50	1.26	15.12
525	1140 R	2.50	2.11	4.61	3.50	.....	3.50	1.11	13.32
435	1151 R	2.75	1.12	3.87	3.75	.....	3.75	.12	1.44
245	1414 R	2.50	2.20	4.70	3.50	.04	3.54	1.16	13.92
225	1463 X	2.50	1.33	3.83	3.50	.....	3.50	.33	3.96
560	1513	5.00	.01	5.01	4.50	.24	4.74	.27	3.24
560	1532 X	2.50	1.76	4.26	3.50	.....	3.50	.76	9.12
560	1532 R	2.50	1.64	4.14	3.50	.....	3.50	.64	7.68
435	1611	5.50	.....	5.50	4.90	.....	4.90	.60	7.20

KERRISDALE—Concluded

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-Ex. Tolls Nov. 1-20	Total		
560	1790 R	\$ 2.75	\$ 2.87	\$ 5.62	\$ 3.75	\$	\$ 3.75	\$ 1.87	\$ 22.44
165	2088 L	2.50	1.44	3.94	3.50	.....	3.50	.44	5.28
435	2176 X	2.50	1.25	3.75	3.50	.....	3.50	.25	3.00
435	2176 Y	2.75	1.08	3.83	3.75	.....	3.75	.08	.96
525	2305 R	2.50	1.05	3.55	3.50	.....	3.50	.05	.60
560	2478	5.25	.02	5.27	4.75	.....	4.75	.52	6.24
435	2491 X	2.75	1.25	4.00	3.75	.16	3.91	.09	1.08
265	2556	5.50	.....	5.50	4.90	.....	4.90	.60	7.20
435	2580	6.25	.05	6.30	5.80	.08	5.88	.42	5.04
185	2894	5.75	5.37	11.12	8.90	.....	8.90	2.22	26.64
435	2959	5.00	.02	5.02	4.50	.....	4.50	.52	6.24
185	3120	5.00	2.24	7.24	6.50	.....	6.50	.74	8.88
435	3289 L	3.00	1.45	4.45	3.90	.....	3.90	.55	6.60
315	3671	5.25	.01	5.26	4.75	.....	4.75	.51	6.12
435	3826	5.50	.02	5.52	4.90	.....	4.90	.62	7.44
560	3849 R	2.50	1.37	3.87	3.50	.....	3.50	.37	4.44

MARPOLE

205	159	5.00	.05	5.05	4.50	.....	4.50	.55	6.60
205	283 L	2.50	2.50	5.00	3.50	.....	3.50	1.50	18.00
205	368 L	2.50	1.08	3.58	3.50	.....	3.50	.08	.96
205	378 L	2.50	1.08	3.58	3.50	.04	3.54	.04	.48
205	457 R	2.50	1.28	3.78	3.50	.....	3.50	.28	3.36
205	866 L	2.75	1.27	4.02	3.75	.04	3.79	.23	2.76

POINT GREY

97	59 L	2.50	2.03	4.53	3.50	.....	3.50	1.03	12.36
85	363 R	2.75	1.14	3.89	3.75	.....	3.75	.14	1.68
85	456	5.50	.23	5.73	5.25	.....	5.25	.48	5.76
85	587 R	2.50	1.19	3.69	3.50	.04	3.54	.15	1.80
195	588	5.25	.....	5.25	4.75	.....	4.75	.50	6.00
455	641	6.00	.15	6.15	5.65	.20	5.85	.30	3.60

BAYVIEW

641	665 Y	3.20	.59	3.79	3.50	.....	3.50	.29	3.48
641	1094 L	3.20	.33	3.53	3.50	.....	3.50	.03	.36
2	1477	14.40	1.69	16.09	10.30	.04	10.34	5.75	69.00
335	1788	4.80	.20	5.00	4.90	.....	4.90	.10	1.20
365	1834 Y	3.45	.37	3.82	3.75	.....	3.75	.07	.84
395	2048 R	3.45	1.02	4.47	3.75	.08	3.83	.64	7.68
395	2604 R	3.20	.92	4.12	3.50	.04	3.54	.58	6.96
155	2653 R	3.45	.45	3.90	3.75	.12	3.87	.03	.36
245	2727 L	3.20	.51	3.71	3.50	.04	3.54	.17	2.04
335	2792 L	3.45	1.00	4.45	3.75	.04	3.79	.66	7.92
15	2864 L	3.20	.55	3.75	3.50	.04	3.54	.21	2.52
365	3156 L	3.45	.35	3.80	3.75	.....	3.75	.05	.60

BAYVIEW—Concluded

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-Ex. Tolls Nov. 1-20	Total		
335	3493 R	\$ 3.20	\$.42	\$ 3.62	\$ 3.50	\$	\$ 3.50	\$.12	\$ 1.44
641	3716 R	3.20	.35	3.55	3.50	.04	3.54	.01	.12
395	3922 R	3.20	.35	3.55	3.50	.....	3.50	.05	.60
641	4146 R	3.20	.42	3.62	3.50	.....	3.50	.12	1.44
365	4234	5.55	.30	5.85	5.80	.....	5.80	.05	.60
15	4513 R	3.20	.52	3.72	3.50	.....	3.50	.22	2.64
275	4552 L	3.45	.50	3.95	3.75	.08	3.83	.12	1.44
455	5113 R	3.45	.49	3.94	3.75	.....	3.75	.19	2.28
275	5230 Y	3.45	.35	3.80	3.75	.....	3.75	.05	.60
395	5305 X	3.95	.21	4.16	4.15	.....	4.15	.01	.12
405	5386	4.30	.38	4.68	4.50	.....	4.50	.18	2.16
395	5443 Y	3.20	.32	3.52	3.50	.....	3.50	.02	.24
395	5577 X	3.45	.48	3.93	3.75	.....	3.75	.18	2.16
395	5651 X	3.20	.37	3.57	3.50	.....	3.50	.07	.84
485	5757 R	3.45	.34	3.79	3.75	.....	3.75	.04	.48
365	5905 L	3.45	.67	4.12	3.75	.....	3.75	.37	4.44
95	6211 L	3.20	.34	3.54	3.50	.....	3.50	.04	.48
365	6300 L	3.45	.68	4.13	3.75	.....	3.75	.38	4.56
2	6363	8.35	.93	9.28	8.90	.....	8.90	.38	4.56
155	6866 L	3.20	.41	3.61	3.50	.....	3.50	.11	1.32
95	6970 R	3.20	.65	3.85	3.50	.24	3.74	.11	1.32
395	7294 X	3.20	.39	3.59	3.50	.....	3.50	.09	1.08
395	7466 L	3.45	.76	4.21	3.75	.....	3.75	.46	5.52
355	7552 R	3.20	.42	3.62	3.50	.....	3.50	.12	1.44
365	7555 L	3.45	.35	3.80	3.75	.....	3.75	.05	.60
365	7698 R	3.70	.96	4.66	3.90	.....	3.90	.76	9.12
365	7845 Y	3.20	.82	4.02	3.50	.....	3.50	.52	6.24
335	7881	8.85	1.05	9.90	9.75	.....	9.75	.15	1.80
275	8676	4.30	.30	4.60	4.50	.....	4.50	.10	1.20
365	9143 L	4.20	.96	5.16	4.50	.....	4.50	.66	7.92
655	9186 R	3.45	.33	3.78	3.75	.....	3.75	.03	.36
625	9268	5.50	.01	5.51	4.90	.....	4.90	.61	7.32
365	9522 L	3.45	.31	3.76	3.75	.....	3.75	.01	.12

DOUGLAS

215	575 Y	3.45	.50	3.95	3.75	.....	3.75	.20	2.40
235	1051 R	3.20	.33	3.53	3.50	.....	3.50	.03	.36
235	1097 X	3.20	.47	3.67	3.50	.....	3.50	.17	2.04
105	1860 L	3.20	.37	3.57	3.50	.04	3.54	.03	.36
572	1870 L	3.20	.38	3.58	3.50	.....	3.50	.08	.96
572	1870 Y	3.20	.33	3.53	3.50	.....	3.50	.03	.36
15	1876 X	3.78	.16	3.94	3.90	.....	3.90	.04	.48
572	2107 L	3.20	.54	3.74	3.50	.....	3.50	.24	2.88
215	2127 R	3.70	.29	3.99	3.90	.....	3.90	.09	1.08
215	2391 Y	3.20	.45	3.65	3.50	.....	3.50	.15	1.80
545	2868 R	3.20	.56	3.76	3.50	.....	3.50	.26	3.12
545	3021 X	3.45	.85	4.30	3.75	.40	4.15	.15	1.80

FAIRMONT

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-Ex. Tolls Nov. 1-20	Total		
295	195 X	\$ 3.20	\$.32	\$ 3.52	\$ 3.50	\$	\$ 3.50	\$.02	\$.24
495	1368 R	3.20	.35	3.55	3.50	.....	3.50	.05	.60
145	1692 L	3.20	.71	3.91	3.50	.....	3.50	.41	4.92
175	1843 L	3.20	.33	3.53	3.50	.....	3.50	.03	.36
405	1890 R	3.20	1.00	4.20	3.50	.....	3.50	.70	8.40
405	2083 Y	3.20	.42	3.62	3.50	.....	3.50	.12	1.44
295	2097 Y	3.20	.46	3.66	3.50	.....	3.50	.16	1.92
535	2684 L	3.45	.09	3.54	3.50	.....	3.50	.04	.48
115	2855 Y	3.20	.39	3.59	3.50	.....	3.50	.09	1.08
295	2880 Y	3.20	.39	3.59	3.50	.04	3.54	.05	.60
605	3308	5.25	.10	5.35	4.75	.08	4.83	.52	6.24
295	3585	5.05	2.23	7.28	5.40	.64	6.04	1.24	14.88
295	3616 R	3.20	.38	3.58	3.50	.....	3.50	.08	.96
355	3850 Y	3.20	.31	3.51	3.50	.....	3.50	.01	.12
605	4011 L	3.20	.44	3.64	3.50	.....	3.50	.14	1.68
585	4105 X	3.45	.67	4.12	3.75	.04	3.79	.33	3.96
305	4341 R	3.20	.56	3.76	3.50	.....	3.50	.26	3.12
585	4569 Y	3.20	.36	3.56	3.50	.04	3.54	.02	.24
585	4653 L	3.45	.48	3.93	3.75	.....	3.75	.18	2.16
175	5067	4.55	.33	4.88	4.75	.....	4.75	.13	1.56
115	5168 R	3.20	.33	3.53	3.50	.....	3.50	.03	.36
615	5461 Y	3.20	.50	3.70	3.50	.....	3.50	.20	2.40
495	5723	4.30	.55	4.85	4.50	.04	4.54	.31	3.72
115	5897 L	3.20	.43	3.63	3.50	.....	3.50	.13	1.56
615	5952 L	3.20	.42	3.62	3.50	.....	3.50	.12	1.44
305	6162 R	3.45	.35	3.80	3.75	.....	3.75	.05	.60
115	6588 L	3.20	.52	3.72	3.50	.....	3.50	.22	2.64
5	6654-5	17.20	1.74	18.94	18.30	.12	18.42	.52	6.24
495	6721	4.55	.24	4.79	4.75	.....	4.75	.04	.48

HIGHLAND

425	390 Y	3.20	.47	3.67	3.50	.....	3.50	.17	2.04
315	403 L	3.20	.52	3.72	3.50	.16	3.66	.06	.72
25	406	7.15	.07	7.22	6.75	.....	6.75	.47	5.64
255	587 Y	3.20	.40	3.60	3.50	.....	5.50	.10	1.20
415	1141 L	3.20	.58	3.78	3.50	.....	3.50	.28	3.36
425	1562 L	3.20	.78	3.98	3.50	.....	3.50	.48	5.76
375	1664 R	3.20	.36	3.56	3.50	.....	3.50	.06	.72
425	1925 X	3.20	.50	3.70	3.50	.16	3.66	.04	.48
415	2032 R	3.20	.56	3.76	3.50	.....	3.50	.26	3.12
465	2108 L	3.20	.34	3.54	3.50	.....	3.50	.04	.48
65	2636	4.30	.36	4.66	4.50	.08	4.58	.08	.96
225	3086	4.30	1.43	5.73	4.50	.52	5.02	.71	8.52
375	3806 L	3.20	.55	3.75	3.50	.08	3.58	.17	2.04
345	3942 X	3.20	.49	3.69	3.50	.....	3.50	.19	2.28
555	4243	4.30	.38	4.68	4.50	.....	4.50	.18	2.16
225	4473 L	3.20	.35	3.55	3.50	.....	3.50	.05	.60
615	4498 R	3.20	.33	3.53	3.50	.....	3.50	.03	.36
635	4610 R	3.20	.71	3.91	3.50	.....	3.50	.41	4.92
615	4639 R	3.20	.42	3.62	3.50	.....	3.50	.12	1.44
475	5017 R	3.45	.35	3.80	3.75	.....	3.75	.05	.60
255	5108 L	3.20	.38	3.58	3.50	.....	3.50	.08	.96
415	5334 R	3.20	.47	3.67	3.50	.....	3.50	.17	2.04
415	5388 L	3.45	1.51	4.96	3.75	.....	3.75	1.21	14.52
135	6106 R	3.20	.57	3.77	3.50	.....	3.50	.27	3.24

SEYMOUR

Petition Page Number	Telephone Number	Monthly Billing Under Old Rates			Monthly Billing Under New Rates			Decrease per Month	Decrease per Annum
		October Rental	4 Months Average Inter-ex. Tolls	Total	Novem- ber Rental	*Inter-Ex. Tolls Nov. 1-20	Total		
35	932	\$ 10.60	\$ 1.97	\$ 12.57	\$ 11.40	\$.16	\$ 11.56	\$ 1.01	\$ 12.12
11	1200	9.60	1.12	10.72	10.30	.04	10.34	.38	4.56
572	2438 Y	3.20	.54	3.74	3.50	.20	3.70	.04	.48
565	2460 R	3.45	.72	4.17	3.75	.....	3.75	.42	5.04
575	2656 Y	3.20	.32	3.52	3.50	.....	3.50	.02	.24
572	2893 L	3.45	.42	3.87	3.75	.04	3.79	.08	.96
549	3524 Y	3.20	.61	3.81	3.50	.04	3.54	.27	3.24
615	3801	5.25	.01	5.26	4.75	.....	4.75	.51	6.12
549	4053 R	3.45	.76	4.21	3.75	.....	3.75	.46	5.52
549	4067 R	3.45	.38	3.83	3.75	.....	3.75	.08	.96
615	4152 Y	3.20	.81	4.01	3.50	.....	3.50	.51	6.12
235	4244 Y	3.20	.46	3.66	3.50	.....	3.50	.16	1.92
225	4285 L	3.20	.43	3.63	3.50	.....	3.50	.13	1.56
215	4577 Y	3.45	.33	3.78	3.75	.....	3.75	.03	.36
215	4638 R	3.20	.88	4.08	3.50	.....	3.50	.58	6.96
235	5047 L	3.45	.49	3.94	3.75	.....	3.75	.19	2.28
615	5597 R	3.20	.34	3.54	3.50	.....	3.50	.04	.48
545	5869 L	3.45	.51	3.96	3.75	.08	3.83	.13	1.56
215	5898 Y	3.20	.54	3.74	3.50	.16	3.66	.08	.96
105	6038	5.75	.19	5.94	5.50	.....	5.50	.44	5.28
572	6047 Y	3.45	.64	4.09	3.75	.12	3.87	.22	2.64
565	6796	10.85	1.25	12.10	11.65	.....	11.65	.45	5.40
235	7417 L	3.20	.81	4.01	3.50	.04	3.54	.47	5.64
15	7444	8.35	.77	9.12	8.90	.....	8.90	.22	2.64
235	7531	4.30	.24	4.54	4.50	.....	4.50	.04	.48
572	7593 L	3.20	.40	3.60	3.50	.....	3.50	.10	1.20
572	7593 R	3.20	.61	3.81	3.50	.28	3.78	.03	.36
215	7809 Y	3.20	.54	3.74	3.50	.....	3.50	.24	2.88
485	7885 L	3.20	.35	3.55	3.50	.....	3.50	.05	.60
549	9385 Y	3.20	.38	3.58	3.50	.....	3.50	.08	.96
35	9393	9.60	.72	10.32	10.15	.....	10.15	.17	2.04
195	9599 L	3.20	.31	3.51	3.50	.....	3.50	.01	.12
549	9558 X	3.45	.43	3.88	3.75	.....	3.75	.13	1.56

TRINITY

549	1892 L	3.45	.35	3.80	3.75	.....	3.75	.05	.60
235	2235	4.80	.47	5.27	5.25	.....	5.25	.02	.24
549	3173 L	3.20	.59	3.79	3.50	.12	3.62	.17	2.04
11	3525	8.35	.82	9.17	8.90	.12	9.02	.15	1.80
572	3547 X	3.70	.31	4.01	3.90	.....	3.90	.11	1.32
572	3547 Y	3.45	.79	4.24	3.75	.08	3.83	.41	4.92
235	4348	4.30	.90	5.20	4.50	.16	4.66	.54	6.48
572	6481 X	3.20	.38	3.58	3.50	.....	3.50	.08	.96

* Covers calls to offices outside Flat Rate area, viz., North Vancouver, West Vancouver and Richmond.

ORDER No. 55404

In the matter of the complaint of the Vancouver Federated Ratepayers and others against flat rates for telephone service by the British Columbia Telephone Company throughout the Vancouver area.

File No. 32560.14

MONDAY, the 3rd day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*G. A. STONE, *Commissioner.*

Upon hearing the complaint at the sittings of the Board held at Vancouver, British Columbia, November 8, 1937, in the presence of Counsel for and representatives of the Vancouver Federated Ratepayers, Ward 1 Ratepayers Association, signatories to petition, and the British Columbia Telephone Company, and what was alleged—

It is ordered: That the complaint be, and it is hereby, dismissed.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55421

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 5th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement	66	to	Tariff	C.R.C. No.	E-1244
"	49	"	"	"	E-1247
"	42	"	"	"	E-2248
"	15	"	"	"	E-2526

Tariff C.R.C. No. 2726

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55441

In the matter of the application of the Nipissing Central Railway Company, hereinafter called the "Applicant Company," under Section 323 of the Railway Act, for approval of by-law dated January 6, 1938, authorizing the General Freight and Passenger Agent of the Applicant Company to prepare and issue freight and passenger tariffs of the tolls to be charged in respect of the railway owned or operated by the Applicant Company, and to submit the same to, and file the same with, the Board.

File No. 17407

MONDAY, the 10th day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
S. J. McLEAN, *Asst. Chief Commissioner.*

Upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the Applicant Company's said by-law, dated January 6, 1938, on file with the Board under file No. 17407, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55456

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 13th day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 103 of Supplement No. 19 to Tariff C.R.C. No. 907, filed by the Dominion Atlantic Railway Company, under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 103 of Supplement No. 19 to Tariff C.R.C. No. 907, approved herein, is 6½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55457

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

THURSDAY, the 13th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item 4D of Supplement No. 8 to Tariff C.R.C. No. 879, filed by the Dominion Atlantic Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 4D of Supplement No. 8 to Tariff C.R.C. No. 879, approved herein, is $5\frac{1}{2}$ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55458

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

THURSDAY, the 13th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 762, filed by the Temiscouata Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 762, approved herein, are as follows:—

Cents per 100 pounds			
Miles	Normal Tolls	Miles	Normal Tolls
10	12	50	$21\frac{1}{2}$
15	12	55	$22\frac{1}{2}$
20	$12\frac{1}{2}$	60	24
25	$14\frac{1}{2}$	65	25
30	$16\frac{1}{2}$	70	25
35	$17\frac{1}{2}$	75	$27\frac{1}{2}$
40	19	80	29
45	20	85	29

H. GUTHRIE,
Chief Commissioner.

ORDER NO. 55468

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2.

TUESDAY, the 16th day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

The Board Orders:

That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement No. 49 to Tariff C.R.C. No. E-1829.
Supplement No. 9 to Tariff C.R.C. No. E-2474.
Tariff C.R.C. No. E-2730.

H. GUTHRIE,
Chief Commissioner.

ORDER NO. 55469

In the matter of the application of G. C. Ranson, Agent, hereinafter called the "Applicant," for permission to file, on less than statutory notice, a supplement to his Tariff C.R.C. No. 1024, to correct a clerical error.

File No. 27612.168.

THURSDAY, the 20th day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*
G. A. STONE, *Commissioner.*

Whereas, through a clerical error in the Applicant's Tariff C.R.C. No. 1024, Item 1225, page 37, an all-rail rate of 465 cents per 100 pounds was published on dry goods, N.O.S., to Regina, Saskatchewan, although the correct rate should be 565 cents per 100 pounds; and the Applicant desires to establish such correct rate on less than statutory notice—

It is ordered: That the Applicant be, and he is hereby granted leave to file on one day's notice a supplement to his Tariff C.R.C. No. 1024, to correct the said error.

H. GUTHRIE,
Chief Commissioner.



The Board of

Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

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Application of Canadian railways and the Chicago and Alton Railroad for ruling of the Board as to L.C.L. rating properly applicable under the provisions of Canadian Freight Classification No. 18 on motor oil delivery cans.

File No. 40420

RULING

BY THE BOARD:

The Board has been furnished with copies of various communications from the Wackman Welded Ware Co., St. Louis, Mo., and the Canadian Freight Association, concerning a controversy as to the L.C.L. rating properly applicable under the provisions of Canadian Freight Classification No. 18 on motor oil delivery cans, and the Board's ruling is desired.

There were some L.C.L. shipments made by the Wackman Welded Ware Company in July, 1934, to points in Western Canada which, in their letters, are described as 5 imperial gallon capacity hot dipped galvanized screw top motor oil delivery cans. They were shipped loose, i.e., not in boxes or crates. For the Canadian portion of the haul, the provisions of the Canadian freight classification governed.

The shippers state that, in the United States, under the provisions of the consolidated freight classification, these cans are subject to the classification description "cans, empty, tank wagon, loose or in packages," and rated 1st-class L.C.L. There is no item of this description in the Canadian freight classification.

The shippers state that these cans are made of the same gauge sheet metal as drums; that there is no necessity for enclosing them in boxes or crates, and the same rating should be applied in Canada as in the United States. What is here involved, however, concerns only the classification provisions in effect at the time these shipments moved. The considerations mentioned by shippers would be relevant in considering the prescription of a rating for future application, but the Board has no power, under the Canadian Railway Act, to make rulings or decisions retroactive, as may be done in the United States under the Interstate Commerce Act.

It is stated by the Canadian Freight Association that the cans in question were not straight sided, consequently could not be classified as a drum under the reading of the provisions of section 9, rule 2, Canadian Freight Classification

No. 18. As previously stated, they were described by shippers as cans, and, upon what is before us, we consider them provided for by item 10, page 247, Canadian Freight Classification No. 18, reading:—

“Cans, Empty:

Oil, iron or steel or tin:

L.C.L.

In boxes or crates. 1 ”

It will be observed that the rating of 1st-class applies only when the cans are shipped in boxes or crates. When shipped loose, the provisions of classification rule 3 come into operation. Section 1 of this rule stipulates:—

“Freight tendered for transportation must be in the form (loose, bulk, bundles, etc.), or in containers (bags, barrels, boxes, crates, etc.), specified in the separate descriptions of articles.”

Section 3 (c) of the same rule states:—

“When articles have been accepted and come into the carriers’ possession to be transported and are in containers of a kind, or a shipping form of a kind, which is not specifically provided in the description for such articles, the rating on the articles in such unauthorized container or shipping form will be based on the ratings on the same articles in such other containers or shipping forms that have been authorized for such articles, as follows.”

It is then stated in the rule that such articles, shipped loose, will be rated three classes higher than in boxes. The progression of ratings (section 6 of the same rule) above 1st-class is $1\frac{1}{2}$, $1\frac{1}{2}$, and double 1st. Therefore, three classes higher than 1st-class is double 1st.

The Board’s ruling, therefore, is that, under the reading of the classification provisions as in effect at the time these shipments moved, the rating applicable was double 1st-class, L.C.L.

OTTAWA, January 24, 1938.

Application of the City of Montreal, Que., for an Order directing the Canadian National Railways to remove the siding crossing Butler Street, serving the Dominion Textile Company, Limited, and other firms; and to restore Butler and O’Connell Streets to the same condition as they were before the issuance of Order No. 28158, dated March 10, 1919.

(File No. 28941)

JUDGMENT

GUTHRIE, CHIEF COMMISSIONER:

This is an application by the city of Montreal for an order directing the Canadian National Railways to remove the siding crossing Butler street, in the city of Montreal, and to restore Butler street and O’Connell street to the same condition as they were prior to the issuance of Order No. 28158 dated March 10, 1919.

The application was heard in the city of Montreal on the 12th day of January, 1938, in the presence of counsel for the city of Montreal, for the Canadian National Railways, and for the Dominion Textile Company, Limited.

In the year 1918 the Grand Trunk Railway Company, now the Canadian National Railways, made an application to the Board for permission to construct a siding and spurs to the manufacturing plant of the British Munitions Company, Limited, in the city of Verdun. This siding was to run from a point on the applicant company’s railway east of Butler street, in St. Gabriel ward,

in the city of Montreal, and extend in a southerly direction crossing Butler street and the St. Pierre river to the premises of the British Munitions Company, Limited, east of Mullarkey avenue, in the city of Verdun. By clause 2 of the said order, it was also provided:—

"2. That the applicant company, unless otherwise ordered by the Board, upon receiving thirty days' notice in writing from the said city under its corporate seal, to that effect, remove the said spur and the materials and appliances pertaining thereto from Butler and O'Connell streets, and restore the roadway and sidewalks on Butler and O'Connell streets to the same plight and condition as they were in at the time the said siding was constructed, unless the applicant company, its successors, or assigns, file with the Board within ten days after the receipt of the said notice an application for an order authorizing the continuance of the said spur and the operation thereof."

The above siding was subsequently constructed by the railway company and has been operated as a siding since the above date.

On July 13, 1920, the city of Montreal notified the railway company in writing that the city required the railway company to remove the said siding at the expiration of thirty days, and restore Butler and O'Connell streets to their former condition. After the receipt of this notice, the railway company applied to the Board for an order to permit the said railway company to continue to maintain and operate the said siding to the said manufacturing plant. The city of Montreal was duly notified of this application, and the city of Montreal requested the Board to set the application down for hearing at the city of Montreal. The same was set down for hearing on March 22, 1921. The city of Montreal was duly notified of this hearing but did not attend thereon. Counsel for the railway company appeared and informed the Board that by arrangement between the parties the application was to be adjourned or struck off the list, whereupon the then Chief Commissioner ordered that the case should be stricken from the list. Nothing further transpired in regard to the above application until the 30th September, 1937, when a subsequent application was made to the Board by the city of Montreal, in which the city asked the Board to issue an order for the removal of the railway siding and spurs, and for the replacement of Butler and O'Connell streets as mentioned in the above Order No. 28158. It is to be noted that the city of Montreal did not serve any notice upon the railway company in respect of this last-mentioned application, as provided by clause 2 of Order No. 28158. I abstain from making any finding as to the sufficiency of the notice served by the city of Montreal upon the railway company on July 13, 1920.

On July 20, 1918, the British Munitions Company, Limited, sold* the above-mentioned property to the Dominion Textile Company, Limited, for the sum of \$800,000 and from 1920 until 1935 the Dominion Textile Company, Limited, continued to operate this plant as part of its undertaking. After ceasing to operate the plant in 1935, the Dominion Textile Company, Limited, granted leases of various portions of the plant to some twelve different companies, who at the present time carry on manufacturing and other business in various portions of the plant. The twelve leases from the Dominion Textile Company, Limited, to the various tenants were produced at the hearing. These leases run for five years and in all but four of them there is a covenant on the part of the lessor that the railway siding to the premises shall be maintained. The various industrial companies which now occupy the property employ at the present time, approximately, 500 men. Freight shipments in and out of the premises average about 300 cars per annum. Representatives of a number of the companies holding the above leases testified at the hearing that without railway facilities as at present they would not be prepared to

continue as tenants of the property. The various tenant companies claim to have an investment in the factory plant at the present time of \$196,000 in machinery and equipment, and \$412,000 in stock and supplies. The assessed value of the property, which is situated in the city of Verdun, is \$631,550.

Train movements upon this siding over Butler street are not frequent. The average is three movements every twenty-four hours. The traffic upon Butler street is also comparatively light. A traffic count was taken by a representative of the Dominion Textile Company, Limited, for six days from 7 a.m. until 6 p.m., except on Saturday, when the hours were from 7 a.m. until 12 noon. This traffic count shows that the total number of horse-drawn vehicles over the railway crossing on Butler street was only 39 for the six-day period. The total number of automobiles for six days was 70; the total number of motor trucks for six days was 89; the total number of pedestrians for six days was 215. So that the average per day of horse-drawn vehicles is only 7.09; of automobiles, 12.73; of motor trucks, 16.18; of pedestrians, 39.09.

Butler street lies in what witnesses describe as an industrial section of the city of Montreal. Mr. N. J. Thompson, Commissioner of Industries of the Canadian National Railways, gave evidence on this point. In the opinion of Mr. Thompson, the district through which Butler street passes will eventually be wholly an industrial area in the city of Montreal. He stated that within a radius of a mile there were already 125 established industries, and he further stated that there was no way of giving railway facilities to the above manufacturing plant without crossing some street or streets in the city of Montreal.

Mr. Percy E. Nobbs also gave evidence in regard to the nature of the property surrounding Butler street. Mr. Nobbs is a well-known municipal planning expert and has done valuable work not only in Montreal but at many points throughout Canada. For twelve years he was chairman of the Town Planning Committee of the city of Montreal. Mr. Nobbs had given some consideration to the locality through which Butler street passes, and he expressed the opinion that the land in that vicinity constituted essentially an industrial section. Both of these witnesses considered it very doubtful if the land in the vicinity of Butler street would ever be occupied as residential property.

The above is a brief recital of the facts which pertain to the present application.

Alderman F. J. Hogan was called as a witness on behalf of the applicant. Alderman Hogan has been an alderman for St. Gabriel's ward for the past fifteen years and has an intimate knowledge of the locality through which Butler street passes and in which the industrial plant is situated. Alderman Hogan stated that it had become necessary for the city of Montreal to utilize Butler street in connection with a contemplated boulevard to be constructed at some future time. The intention of the city is to link up Atwater avenue with Wellington street and other arteries running east and west and, in his opinion, it would be a serious objection to have a railway siding crossing over the proposed boulevard. The witness also stated as his opinion that the presence of the siding over Butler street had a tendency to depreciate the price of property in the neighbourhood, and he also stated that the crossing constituted a source of danger to the public using Butler street. Alderman Hogan maintained that in the interests of residents of that part of Montreal the railway siding crossing Butler street should be removed.

Mr. Henri Gibeau, an engineer of the city of Montreal, who is now assistant to the Director of the Public Service Department of the city of Montreal, gave evidence in support of the application. This witness spoke in particular in regard to the proposed boulevard. He stated that this project would require the paving of the section between Atwater avenue and Wellington street and would join Butler street at O'Connell avenue, where the

railway siding is located. In his opinion, when the boulevard is completed, there will be considerable increase in traffic over it. He also stated that any level railway crossing is an objection to highway traffic, and intimated that this objection was the principal reason for the present application. He also stated that the boulevard scheme was being held up at the present time owing to the lack of funds necessary to proceed with it; that there were no funds available at the present time for this particular work. The witness did not know of any by-law of the city of Montreal authorizing the proposed work.

The Board had an opportunity of visiting Butler street, where it is intersected by the railway siding, and of having a general view of the locality. The impression I formed was that the locality is now to a large extent an industrial locality, and will probably continue to be such. I would think it doubtful if the region through which Butler street passes ever became a residential neighbourhood even if the proposed boulevard were eventually constructed. I was impressed with the importance of affording railway facilities to those companies who are now tenants of various portions of the former munitions plant. There seems to be no other way of furnishing railway facilities to this property without crossing over Butler street, or some other city streets, in Montreal. Railway movements over this street are so infrequent, and the highway traffic so light, that I do not think there is any serious danger to the public arising from the operation of this siding over Butler street; nor can I see any serious ground for alleging that the presence of the siding across Butler street will materially interfere with the construction of the proposed boulevard.

There are other facts and circumstances which must be considered in regard to the present application. For seventeen years the city of Montreal has allowed this matter to remain dormant. When the railway company applied to the Board in 1920 for permission to continue to operate the siding, there must, I think have been some arrangement or agreement reached between the city and the railway company for continued operation of this siding, the particulars in regard to which we have not before us at the present time. Whatever the arrangement or agreement was, operation of the siding has continued without interruption for seventeen years without friction or difficulty of any kind. During the lapse of these years other parties have acquired interests in this problem. No less than twelve separate industrial companies have become tenants of portions of the original manufacturing plant. These companies have a heavy capital investment and, at the present time, an employment of 500 hands. To deprive these various industries of shipping facilities by rail would, in my judgment, be quite unwarranted. To do so would result in greater loss and inconvenience to the various manufacturing companies who now occupy the said premises, and to their employees, than is experienced at the present time either by the city of Montreal or by the public by reason of the railway crossing on Butler street.

For the reasons heretofore set out, I think the application should be dismissed.

January 24, 1938.

The Deputy Chief Commissioner and Commissioner Stone concurred.

ORDER No. 55504

In the matter of the application of the City of Montreal, in the Province of Quebec, for an Order directing the Canadian National Railways to remove the siding across Butler Street, serving the Dominion Textile Company, Limited, and other firms, which was authorized to be constructed under the Order of the Board No. 28158, dated March 10, 1919; and to restore Butler and O'Connell Streets to the same condition as they were before the said Order issued.

File No. 28941

TUESDAY, the 25th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*F. N. GARCEAU, K.C., *Deputy Chief Commissioner.*G. A. STONE, *Commissioner.*

Upon hearing the application at the sittings of the Board held at Montreal, January 12, 1938, in the presence of counsel for the city of Montreal, the Dominion Textile Company, Limited, and the Canadian National Railways, and what was alleged; and upon an inspection by the Board of the *locus in quo*,—

It is ordered: That the application be, and it is hereby, refused.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55488

In the matter of the application of the Canadian Pacific Railway Company and the Canadian National Railways, hereinafter called the "Applicants," for permission to amend tariffs naming export rates on newsprint paper and paper and paper commodities, on less than statutory notice.

File No. 27612.169

WEDNESDAY, the 26th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*

Whereas the applicants publish export rates on newsprint paper and paper and paper commodities in item 900 in Canadian Pacific Railway Tariff C.R.C. No. E-4734, and item 890-B in Supplement No. 29, item 891 in Supplement No. 38, and item 890-D in Supplement No. 42 thereto; also items 820-B to 827-B, inclusive, in Supplement No. 9, and items 669, 670-C to 676-C, inclusive, in Supplement No. 11 to Canadian National Railways Tariff C.R.C. No. E-2655, and items 175-E and 250-C in Supplement No. 42 to C.R.C. No. E-1974.

And whereas the applicants desire to cancel the above mentioned items in full and publish in their tariffs, Canadian Pacific Railway C.R.C. No. E-4734 and Canadian National Railways C.R.C. Nos. E-2655 and E-1974, two new items, one on newsprint paper and the other on paper and paper commodities, except newsprint, showing the commodities actually moving, as well as the actual shipping points of such commodities;

And whereas the proposed amendments constitute advances, reductions, and no change in rates, and it is desired to make the said rates effective February 1, 1938, following conference and consent of the Canadian Pulp and Paper Association;

It is ordered: That the applicants be, and they are hereby, granted leave to issue supplements to the said tariffs, making such amendments effective February 1, 1938, on three days' notice.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55505

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 26th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. 1065, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1065, approved herein, are as follows:—

To	Cents per 100 pounds
Montreal, Que.	24
Sherbrooke, Que.	23

One and one-half cents per 100 pounds to be deducted account of water haul.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55506

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

WEDNESDAY, the 26th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in Tariff C.R.C. No. 1066, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1066, approved herein, are as follows:—

To	Cents per 100 pounds
Digby, N.S.	11
Plympton, N.S.	11
Weymouth, N.S.	11
Church Point, N.S.	11
Little Brook, N.S.	11
Meteghan, N.S.	11
Yarmouth, N.S.	9½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55507

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

WEDNESDAY, the 26th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 11 to Tariff C.R.C. No. E-1242.

Supplement 15 to Tariff C.R.C. No. E-1671.

Supplement 17 to Tariff C.R.C. No. E-2448.

Supplement 6 to Tariff C.R.C. No. E-2629.

Tariff C.R.C. No. E-2732.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55513

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 27th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.**The Board orders:*

1. That the tolls published in item 43 of 7th revised page 17, column "O" of 6th revised page 20, and item 1225 of 3rd revised page 54 of Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 43 of 7th revised page 17, column "O" of 6th revised page 20, and item 1225 of 3rd revised page 54 of Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item		Cents per 100 pounds
Page 20	43 Normal tolls are those shown for Column "O"	
Not over	20 miles	4
"	" 30 "	4½
"	" 40 "	5
"	" 60 "	5½
"	" 70 "	6
"	" 80 "	6½
"	" 100 "	7
"	" 150 "	7½
"	" 200 "	8
"	" 250 "	8½
"	" 300 "	9
"	" 350 "	10½
Item 1225	To	Cents per 100 pounds
	Angliers, Que.	64½
	Fabre, Que.	62½
	Laverlochere, Que.	65
	Lorrainville, Que.	65
	Maniwaki, Que.	53
	Temiskaming, Que.	61½
	Ville Marie, Que.	65

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55514

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

THURSDAY, the 27th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 24 to Tariff C.R.C. No. E-4368, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 24 to Tariff C.R.C. No. E-4368, approved herein, will be the 10th class rates covered by previous order or orders of the Board.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55520

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

MONDAY, the 31st day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Supplement No. 3 to Tariff C.R.C. No. E-4790, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Supplement No. 3 to Tariff C.R.C. No. E-4790, approved herein, are as follows:—

	Cents per 100 pounds
H	111
K	113½
L	114

One and one-half cents per 100 pounds to be deducted account of water haul on traffic from Dominion Atlantic Railway stations.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55524

In the matter of the application of the Canadian Pacific Railway Company, hereinafter called the "Applicant Company," under Section 348 of the Railway Act, for approval of special contract for the release of responsibility in connection with the movement of paper mill rolls, iron or steel, rubber covered, while transported in heated cars during cold weather.

File No. 40615

MONDAY, the 31st day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*J. A. STONEMAN, *Commissioner.*G. A. STONE, *Commissioner.*

Upon reading what is filed in support of the application, and the recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said special contract for release of responsibility in connection with the movement of paper mill rolls, iron or steel, rubber covered, while transported in heated cars during cold weather, on file with the Board under file No. 40615, be, and it is hereby, approved.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55528

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

FRIDAY, the 28th day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in item 75 of Supplement No. 32 to Tariff C.R.C. No. E-4734, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 75 of Supplement No. 32 to Tariff C.R.C. No. E-4734, approved herein, are as follows:—

Item		Cents per Canadian Standard Barrel
75	From	
	Fredericton, N.B., to Saint John, N.B..	27½
	Fredericton, N.B., to West Saint John.. . . .	
	Woodstock, N.B., to Saint John, N.B.. . . .	34
	Woodstock, N.B., to West Saint John.. . . .	

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55529

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

MONDAY, the 31st day of January, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board Orders:

1. That the tolls published in item 300 of 1st revised page 24 of Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 300 of 1st revised page 24 of Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item		Cents per 100 pounds	
300	From		
	Halifax, N.S., to Quebec, Que.. . . .	60	
	One and one-half cents per 100 pounds to be deducted account of water haul.		
	From	C.L.	L.C.L.
	Saint John, N.B., to Quebec, Que.. . . .	44	57½
	St. Stephen, N.B., to Quebec, Que.. . . .	41	53½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55530

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.2

MONDAY, the 31st day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 8 to Tariff C.R.C. No. E-2311.

Supplement 27 to Tariff C.R.C. No. E-2444.

Supplement 43 to Tariff C.R.C. No. E-2248.

Supplement 43 to Tariff C.R.C. No. E-1974.

Supplement 16 to Tariff C.R.C. No. E-2526.

H. GUTHRIE,

Chief Commissioner.

ORDER No. 55538

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

WEDNESDAY, the 2nd day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item 75 of 4th revised page 18, item 380 of 1st revised page 25A, item 520 of 2nd revised page 52, and item 1080 of 3rd revised page 51 of Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item 75 of 4th revised page 18, item 380 of 1st revised page 25A, item 520 and 2nd revised page 52, and item 1080 of 3rd revised page 51 of Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item		Cents per 100 pounds
75	The normal tolls are those shown for Column "M" in Order No. 52446, dated 8th November, 1935.	
380	The normal tolls are the fourth class rates covered by previous order or orders.	
520	The normal tolls are the first class rates covered by previous order or orders.	

97 to Quebec

1080

To	Grand Falls, N.B.	From Hartland, N.B.
Beloeil, Que.	39	38
Brampton, Ont.	46½	46½
Brantford, Ont.	48½	48
Caledonia, Ont.	48½	47½
Cardinal, Ont.	40	41
Cornwall, Ont.	40½	40½
Danville, Que.	39	37½
Goderich, Ont.	54	54
Guelph, Ont.	48½	48
Hamilton, Ont.	47½	47
Kingston, Ont.	42	41½
Kitchener, Ont.	48½	48
Levis, Que.	37½	35½
London, Ont.	51	51
Magog, Que.	38½	38½
Montreal, Que.	38½	38½
Nobel, Ont.	52	51½
Peterboro, Ont.	43½	43½
Port Credit, Ont.	47½	47½
Quebec, Que.	37½	35½
St. Catharines, Ont.	47	46½
St. Hyacinthe, Que.	38½	38½
Sherbrooke, Que.	37	37½
Toronto, Ont.	45½	45
Valleyfield, Que.	40	38½
Waterloo, Que.	38	38½
Welland, Ont.	47	46½
Woodbridge, Ont.	46½	46½
Woodstock, Ont.	51½	51

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55539

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to file on less than statutory notice a supplement to their Tariff C.R.C. No. E-1974, to correct a typographical error.

File No. 27612.170

FRIDAY, the 4th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

Whereas, through a typographical error in item 178 of supplement No. 43 to the Applicants' Tariff C.R.C. No. E-1974, a rate of 15 cents per 100 pounds is published on newsprint paper, in carloads, from Dalhousie, New Brunswick, to Halifax, Nova Scotia, for export, although the correct rate should be 15½ cents, per 100 pounds, and the applicants desire to establish such correct rate on less than statutory notice,—

It is ordered: That the applicants be, and they are hereby, granted leave to file on one day's notice a supplement to their Tariff C.R.C. No. E-1974, to correct the said error.

H. GUTHRIE,
Chief Commissioner.

GENERAL ORDER No. 568

In the matter of the application of the Railway Association of Canada for an Order permitting the shipment of nitric acid in glass carboys complying with Shipping Container Specifications 1A, 1B, and 1C published in Agent B. W. Dunn's Tariff C.R.C. No. 2, on file with the Board.

File No. 1717.1.12

SATURDAY, the 22nd day of January, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

S. J. McLEAN, *Assistant Chief Commissioner.*

J. A. STONEMAN, *Commissioner.*

G. A. STONE, *Commissioner.*

Upon reading the application and the recommendation of the Chief Operating Officer of the Board,—

It is ordered: That boxed carboys complying with the requirements of paragraphs 348, 349, 350, 351, 361, and 379 and Shipping Container Specifications 1A, 1B, and 1C, published in Agent B. W. Dunn's Tariff C.R.C. No. 2, on file with the Board, as well as any cancellations, changes, or additions thereto, may be used for shipping nitric acid by freight over railways in Canada subject to the jurisdiction of the Board.

H. GUTHRIE,

Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 55401. Dec. 30—Requiring the C.P.R. Co. to maintain watchmen during twenty-four hours of each day at the crossing of Quebec St., London, Ont.
- 55402. Dec. 30—Approving installation of automatic signals on the C.P.R. at scissors crossing on James St., Fort William, Ont.
- 55403. Jan. 3—Requiring the Grand River Railway Co. to install two automatic bells and wigwags, one on each side of the three main tracks crossing Highway No. 24, in Lot 11, Con. 12, Township of Dumfries North, Ont.
- 55404. Jan. 3—Dismissing complaint of Vancouver Federated Ratepayers and others against flat rates for telephone service by the British Columbia Telephone Co. in Vancouver area.
- 55405. Dec. 30—Authorizing the C.P.R., until traffic is resumed, to remove station agent at Hope, B.C.
- 55406. Dec. 30—Authorizing the C.P.R. to close down interlocking plant at crossing of the Kettle Valley and the C.N.R. at Hope, B.C., until such time as Coquihalla Subdv. is reopened for traffic.
- 55407. Jan. 4—Authorizing the C.N.R. to install double bells and wigwags at Broadway Ave. crossing, Montreal East, Que.
- 55408. Jan. 4—Authorizing the Corp. of the Township of Spallumcheen, B.C., to construct a highway diversion and an overhead bridge across the C.N.R.
- 55409. Jan. 4—Directing the C.N.R. to establish sight lines at crossing of Tillicum Road, mileage 2.25 Cowichan Subdv.
- 55410. Jan. 3—Approving Appendix "A" for attachment to Traffic Agreement with the Arundel Development Co., Ltd., and the Bell Telephone Co.
- 55411. Jan. 3—Approving Traffic Agreement between the Bell Telephone Co. and the Province of Ontario.
- 55412. Jan. 3—Approving revised Appendix "A" to Traffic Agreement between the Bell Telephone Co. and La Compagnie de Telephone de Nicolet, Limitee.
- 55413. Jan. 3—Declaring the Toronto, Hamilton & Buffalo Railway crossing of King St., Toronto, protected to Board's satisfaction.
- 55414. Jan. 3—Declaring the C.N.R. crossing of Jones Ave., Toronto, protected to Board's satisfaction.
- 55415. Jan. 3—Declaring the C.N.R. crossing of Main St., at Seaforth, Ont., protected to Board's satisfaction.
- 55416. Jan. 3—Authorizing the New York Central Railroad Co. to install two reflector button signs at Oneida Road crossing, near Shelden Station, Ont.
- 55417. Jan. 3—Authorizing the New York Central Railroad Co. to install two reflector button signs at School House Road crossing, 1.69 miles west of Yarmouth Tower, Ont.
- 55418. Jan. 3—Declaring the C.N.R. crossing of Maple Avenue at Ville St. Pierre, Que., protected to Board's satisfaction.
- 55419. Jan. 3—Requiring the C.P.R. to appoint a caretaker at Ste. Brigide Station, Que.
- 55420. Jan. 5—Authorizing the Public Utilities Commission of the City of Brantford, Ont., to remove diamond crossing of the C.N.R. at West Colborne St., Brantford, Ont.
- 55421. Jan. 5—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in tariffs filed by the C.N.R. Sec. 3.
- 55422. Jan. 5—Approving Traffic Agreement between the Bell Telephone Co. and Corporation of Township of Rochester.
- 55423. Jan. 5—Approving Supplement to service station application between the Bell Telephone Co. and the Commissioners for the Telephone System of the Municipality of the Township of Mersca.
- 55424. Jan. 4—Authorizing the C.N.R. to install a wigwag signal, mileage 87.61 Grand Falls Subdv.
- 55425. Jan. 4—Authorizing the C.P.R. to install an automatic bell and wigwag at crossing of Wilson Ave., near Weston, Ont.
- 55426. Jan. 5—Authorizing the Dominion Atlantic Railway Co. to remove its station agent at Tupperville, N.S., etc.
- 55427. Jan. 6—Declaring the C.N.R. crossing, first public crossing west of St. Hubert Station, Que., protected to Board's satisfaction.

- 55428. Jan. 6—Declaring the C.N.R. crossing at mileage 40·69 Uxbridge Subdv. protected to Board's satisfaction.
- 55429. Jan. 6—Declaring the C.P.R. crossing of Aylmer St., Peterboro, Ont., protected to Board's satisfaction.
- 55430. Jan. 6—Authorizing the Dept. of Highways and Transportation for the Province of Saskatchewan to construct a highway crossing over the C.P.R. at Duval, Sask.
- 55431. Jan. 8—Authorizing the C.N.R. to construct a public crossing over their main line near Yonker Station, Sask.
- 55432. Jan. 8—Authorizing the C.N.R. to install two wigwags and one bell at crossing of highway north of Oriole, Ont.
- 55433. Jan. 8—Authorizing the C.P.R. to reconstruct subway under its tracks near Estevan, Sask.
- 55434. Jan. 8—Rescinding Order No. 53458, dated September 15, 1936, authorizing Dept. of Highways for Ontario to construct subway under C.N.R. at Langstaff, Ont.
- 55435. Jan. 7—Declaring the C.N.R. crossing at mileage 61·61 Sussex Subdv. protected to Board's satisfaction.
- 55436. Jan. 7—Declaring the C.N.R. crossing at mileage 4·31 Cobocok Subdv. protected to the Board's satisfaction.
- 55437. Jan. 7—Declaring the C.P.R. crossing at mileage 71·59 Havelock Subdv. protected to Board's satisfaction.
- 55438. Jan. 7—Amending Order No. 49639 dated March 13, 1933, so as to provide that the Lake Erie & Northern Railway Co. be authorized to operate its trains through the interlocker at the crossing of the C.N.R. at Simcoe, without first coming to a stop.
- 55439. Jan. 6—Amending Order No. 26618 dated October 5, 1917, so as to provide that cost of maintaining the crossing over the C.P.R. in SE $\frac{1}{4}$ Sec. 32-39-27, W3M, Sask., be borne and paid by Village of Evesham instead of Dept. of Highways for Saskatchewan.
- 55440. Jan. 8—Approving clearances at C.N.R. Ash Disposal Plant at Fort Rouge, Man.
- 55441. Jan. 10—Approving by-law of the Nipissing Central Railway Co. dated January 6, 1938, *re* officials authorized to issue tariffs.
- 55442. Jan. 10—Amending Order No. 53631 dated October 26, 1936, *re* overhead crossing, etc., at mileage 40·54 west of North Bend, B.C. (C.P.R.).
- 55443. Jan. 10—Declaring the C.N.R. crossing at mileage 96·0 Carman Subdv. protected to Board's satisfaction.
- 55444. Jan. 10—Authorizing the C.N.R. to close crossing of their railway on road between Sections 17 and 18, Township 18, Range 30, W1M, Sask.
- 55445. Jan. 10—Declaring the Grand River Railway crossing, Galt, Ont., mileage 0·0 Waterloo Subdv., protected to Board's satisfaction.
- 55446. Jan. 13—Declaring the C.P.R. crossing at mileage 6·32 St. Thomas Subdv., protected to Board's satisfaction.
- 55447. Jan. 12—Authorizing the C.N.R. to use and operate bridge at mileage 32·9 St. Brieux Subdv., Sask.
- 55448. Jan. 12—Authorizing the C.N.R. to use and operate bridge at mileage 30·8 St. Brieux Subdv., Sask.
- 55449. Jan. 13—Approving Traffic Agreement between the Bell Telephone Co. and the Dept. of Lands and Forests for Ontario.
- 55450. Jan. 11—Declaring the C.P.R. crossing at mileage 61·03 Peterboro Subdv. protected to Board's satisfaction.
- 55451. Jan. 11—Declaring the C.N.R. crossing at mileage 18·74 Rouse's Point and Massena Subdv. protected to Board's satisfaction.
- 55452. Jan. 13—Declaring the C.N.R. crossing at mileage 9·6 Alliston Subdv. protected to Board's satisfaction.
- 55453. Jan. 13—Refusing application of C.N.R. for leave to remove the station agent at Lanfine, Alta.
- 55454. Jan. 13—Refusing application of C.N.R. for leave to remove the station agent at Benton, Alta.
- 55455. Jan. 14—Declaring the C.N.R. crossing at mileage 50·8 Huntsville Subdv., protected to Board's satisfaction.

55456. Jan. 13—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff and supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
55457. Jan. 13—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Co. under Sec. 9.
55458. Jan. 13—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Temiscouata Railway Co. under Sec. 9.
55459. Jan. 17—Requiring the C.N.R. to install double bells and wigwags at each of the crossings of Caradoc and Metcalfe Sts., in the County of Middlesex, and Oxford, Victoria, and Richmond Sts., Strathroy, Ont.
55460. Jan. 17—Authorizing the B.C. Electric Railway Co., Ltd., to discontinue the existing protection at the crossing of its tracks and the tracks of the Vancouver, Victoria & Eastern Railway & Navigation Co. at Brunette St., New Westminster, B.C., and to remove its plant and tower.
55461. Jan. 17—Amending Order No. 55125 dated November 1, 1937, requiring the C.N.R. to install double bells and wigwags at the crossing of the highway east of Lennoxville Station, Que., to provide for change in cost.
55462. Jan. 14—Requiring the C.N.R. to install a track circuit on each side of the crossing of the highway by the Mersey Paper Company's siding at Brooklyn Station, near Liverpool, N.S., etc.
55463. Jan. 17—Declaring the C.N.R. crossing at 129th Ave., Edmonton, Alta., protected to Board's satisfaction.
55464. Jan. 14—Requiring the C.N.R. to shorten the westbound ringing circuit for the wigwags installed at the crossing of the highway just east of Hampton Station, N.B., etc.
55465. Jan. 18—Declaring the C.P.R. crossing at mileage 77·77 Taber Subdv., protected to Board's satisfaction.
55466. Jan. 18—Declaring the C.P.R. crossing at 12th St., Lethbridge, Alta., protected to Board's satisfaction.
55467. Jan. 18—Declaring the C.P.R. crossing at Second Ave., Port Arthur, Ont., protected to Board's satisfaction.
55468. Jan. 18—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
55469. Jan. 20—Authorizing G. C. Ransom, Agent, to file on one day's notice a supplement to his Tariff C.R.C. No. 1024, to correct an error.
55470. Jan. 20—Authorizing the C.N.R. and the Fort William St. Railway to operate their trains and cars over crossing adjacent to the intersection of Queen and James Sts., Fort William, Ont., at a speed not exceeding ten miles an hour.
55471. Jan. 18—Declaring the C.P.R. crossing at mileage 13·43 St. Gabriel Subdv., protected to Board's satisfaction.
55472. Jan. 19—Setting out the proportions of cost of work done by the Bell Telephone Co. at Richmond and Wellington St., subways, London, Ont., to be paid by the C.N.R., L. & P.S. Rly., and City of London.
55473. Jan. 19—Declaring the C.N.R. crossing at mileage 6·54 Chatham Subdv., protected to Board's satisfaction.
55474. Feb. 3—Requiring the C.N.R. to install bell and wigwag at crossing of Trunk Highway No. 3 at East River, N.S.
55475. Jan. 22—Approving clearances of the Shawinigan Terminal Railway Company's trolley wires located between mileage 21·3 and 22·4 St. Maurice Valley Subdv. for a period of six months.
55476. Jan. 20—Authorizing the C.P.R. to construct a highway crossing over its railway at mileage 79·8 Sherbrooke Subdv.
55477. Jan. 20—Granting leave to the Bell Telephone Co. and The Consumers' Gas Co. to appeal to the Supreme Court of Canada from Orders of the Board numbered 55071 and 55144.
55478. Jan. 22—Declaring the C.N.R. crossing at mileage 25·99 Brampton Subdv. protected to Board's satisfaction.
55479. Oct. 1—Extending the time within which the C.N.R. may apply for leave to appeal to the Supreme Court of Canada from Order No. 54321, until January 20, 1938.

- 55480. Jan. 20—Granting leave to the C.N.R. to appeal to the Supreme Court of Canada from Order No. 54321 upon certain questions of law.
- 55481. Jan. 22—Enlarging the amount of contribution from Dept. of Transport Vote No. 357 in connection with changes at crossing at mileage 54·73 Souris Subdv., C.N.R.
- 55482. Jan. 20—Authorizing the C.N.R. to install double bells and wigwags at crossing of Eglinton Ave., near Scarboro, Ont.
- 55483. Jan. 22—Declaring the Montreal & Southern Counties Railway crossing at mileage 8·8 Greenfield Park Subdv., protected to Board's satisfaction.
- 55484. Jan. 22—Authorizing the C.P.R. to remove caretaker at Nevis Station, Alta.
- 55485. Jan. 22—Approving clearances at coal loading platform located on siding serving James Fitton, near Chipman, N.B. (C.P.R.).
- 55486. Jan. 22—Approving clearances at coal loading platform located on siding serving C. S. Yeamans at Newcastle Bridge, N.B.
- 55487. Jan. 22—Approving proposed automatic signalling for the protection of draw span of bridge crossing Saint John River at Fredericton, N.B.
- 55488. Jan. 26—Authorizing the C.P.R. to issue supplements to certain tariffs on three days' notice.
- 55489. Jan. 25—Declaring the Grand River Railway crossing at mileage 10·2 Waterloo Subdv. protected to Board's satisfaction.
- 55490. Jan. 25—Amending Order No. 53983 *re* crossing at Alley's Mills, P.E.I., to provide for difference in cost of changes. (C.N.R.)
- 55491. Jan. 25—Approving Traffic Agreement between the Bell Telephone Co. and La Compagnie de Telephone de Weedon.
- 55492. Jan. 25—Refusing application of the C.N.R. to remove station agent at Cedoux, Sask.
- 55493. Jan. 25—Authorizing the C.N.R. to remove station agent at Colgate, Sask.
- 55494. Jan. 25—Authorizing the C.N.R. to remove station agent at Bresaylor, Sask.
- 55495. Jan. 25—Refusing the application of the C.N.R. to remove agent at Cavell Station, Sask.
- 55496. Jan. 25—Approving location and details of shelter to be erected by the C.N.R. at Merriton, Ont.
- 55497. Jan. 25—Approving Traffic Agreement between the Bell Telephone Co. and Joseph Lapre.
- 55498. Jan. 25—Authorizing the C.P.R. to use bridge over the Magaguadavic River, at mileage 73·62 St. John Subdv.
- 55499. Jan. 25—Extending the time within which bell and wigwag may be installed at mileage 3·8 Souris Subdv. by the C.N.R.
- 55500. Jan. 25—Authorizing the C.P.R. to construct a road diversion at grade across its railway at mileage 31·00 Expanse Subdv., etc.
- 55501. Jan. 25—Authorizing the C.P.R. to construct a branch line of railway to serve the National Harbours Board, et al, at Three Rivers, Que.
- 55502. Jan. 25—Authorizing the C.P.R. to operate bridge over the Salmon River at Chipman, N.B.
- 55503. Jan. 25—Approving the construction of siding to serve Massey-Harris Co., Ltd., etc., at Woodstock, Ont. (C.P.R.).
- 55504. Jan. 25—Refusing application of City of Montreal for an order directing the C.N.R. to remove siding across Butler St., serving Dominion Textile Co., Ltd.
- 55505. Jan. 26—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55507. Jan. 26—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55508. Jan. 25—Declaring the C.P.R. crossing of Eckhardt Ave., Penticton, B.C., protected to Board's satisfaction.
- 55509. Jan. 26—Approving certain agreements between the Bell Telephone Co. and the City of Fort William, Ont.
- 55510. Jan. 26—Slightly amending Order No. 52008 dated June 7, 1935, *re* Broadway St., Melfort, Sask., (C.N.R.).
- 55511. Jan. 27—Declaring the C.N.R. crossing at mileage 36·99 Grimsby Subdv. protected to Board's satisfaction.
- 55512. Jan. 25—Approving crossing of the C.P.R. by the north and south surveyed road through the centre of Sec. 12, 17, 10, W2M., Sask., at mileage 30·2 Indian Head Subdv.
- 55513. Jan. 27—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff and supplement to tariff filed by the C.P.R. under Sec. 9.
- 55514. Jan. 20—Granting leave to the Bell Telephone Co. to appeal to the Supreme Court from Order No. 55071 dated October 26, 1937, requiring Bell Telephone Co. and Hydro-Electric Power Commission of Ontario to remove at their own expense their respective plants and equipment from Eighteenth St., New Toronto, Ont., in connection with C.N.R. subway.

- 55516. Jan. 20—Granting leave to the Bell Telephone Co. and The Consumers' Gas Co. of Toronto, to appeal to the Supreme Court from Order No. 55144 dated November 4, 1937, upon certain questions of law, *re* moving of plant and equipment from Victoria Park Ave. subway adjacent to City of Toronto (C.N.R.).
- 55517. Jan. 27—Authorizing the C.N.R. to operate bridge at mileage 1·3 Stettler Subdv., Alberta.
- 55518. Jan. 27—Authorizing the Dept. of Highways and Transportation for Saskatchewan to construct a crossing over C.N.R. on road allowance east of Sec. 18, 45, 9, W2M, Sask.
- 55519. Jan. 27—Declaring the Grand River Railway Co. crossing at Kent Ave., Kitchener, Ont., protected to Board's satisfaction.
- 55520. Jan. 31—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55521. Jan. 31—Requiring the C.N.R. to install bell and wigwag at crossing of Trunk Highway No. 3 near Hubbards, N.S.
- 55522. Jan. 29—Amending Orders Nos. 53910 and 55237 to correct an error in mileage of crossing.
- 55523. Jan. 29—Authorizing the C.P.R. and C.N.R. to remove station agent at Renfrew Junction, Ont.
- 55524. Jan. 31—Approving special contract for release of responsibility in connection with the movement of paper mill rolls, iron or steel, rubber covered, while transported in heated cars during cold weather. (C.N.R.)
- 55525. Jan. 31—Declaring the C.N.R. crossing at mileage 13·60 Simcoe Subdv. protected to Board's satisfaction.
- 55526. Jan. 29—Rescinding Order No. 54444 dated June 17, 1937, subject to and upon condition that the London & Port Stanley Railway Co. maintain a speed restriction not exceeding six miles an hour over fill at Mill Creek, Ont.
- 55527. Jan. 31—Authorizing the C.P.R. to remove caretaker appointed at Loyalist Station, Alta.
- 55528. Jan. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in supplement to tariff and tariff filed by the C.P.R. under Sec. 9.
- 55529. Jan. 31—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55530. Jan. 31—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55531. Jan. 29—Authorizing the Dept. of Roads for Quebec to move existing highway crossing by the C.N.R. at mileage 42·16 Grand'Mere Subdv., Que., to a point northeast of present site.



The Board of
Railway Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. 27

Ottawa, March 1, 1938

No. 25

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the King's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the King's Printer, Ottawa.

ORDER No. 55542

*In the matter of tariffs and supplements to tariffs filed under the provisions of
the Maritime Freight Rates Act.*

File No. 34822.13

FRIDAY, the 4th day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1064, filed by the Dominion Atlantic Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act; the Dominion Atlantic Railway Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1064, approved herein, are as follows:—

From	Cents per 100 pounds	
	Billed	Normal
Annapolis Royal, N.S.	13	16½
Round Hill, N.S.	12	15
Tupperville, N.S.	11	14
Paradise, N.S.	10	12½
Lawrencetown, N.S.	10	12½
Wilmot, N.S.	10	12
Kingston, N.S.	10	12
Auburn, N.S.	10	12
Aylesford, N.S.	10	12
Berwick, N.S.	11	13½
Waterville, N.S.	12	14½
Cambridge, N.S.	12	14½
Coldbrook, N.S.	13	16
Kentville, N.S.	12	13½
Centreville, N.S.	13	16
Sheffield Mills, N.S.	13	16
Hillaton, N.S.	13	16
Canning, N.S.	13	16
Kingsport, N.S.	13	16

From	Cents per 100 pounds	
	Billed	Normal
Billtown, N.S.	14	17
Lakeville, N.S.	14	17
Woodville, N.S.	15	19
Grafton, N.S.	15	19
Somerset, N.S.	15	19
Weston, N.S.	16	20
Port Williams, N.S.	12	13½
Wolfville, N.S.	11	13
Grand Pré, N.S.	11	13
Horton Landing, N.S.	11	13
Avonport, N.S.	11	13
Hantsport, N.S.	10	12½
Falmouth, N.S.	10	12
Windsor, N.S.	10	12

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55557

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 8th day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said Section 3, namely:—

Supplement 24 to Tariff C.R.C. No. E-1256

Supplement 42 to Tariff C.R.C. No. E-1906

Tariff C.R.C. No. E-2740

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55570

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 12th day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in item 201 of Supplement No. 22 to Tariff C.R.C. No. 1006, filed by the Dominion Atlantic Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 201 of Supplement No. 22 to Tariff C.R.C. No. 1006, approved herein, are as follows:—

Item	To	Cents per 100 pounds
201		C.L.
	Middleton, N.S.	4
	Yarmouth, N.S.	5½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55571

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 12th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1067, filed by the Dominion Atlantic Railway Company under Section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act; the said Company's proportions to be reported as shown below.

2. And the Board hereby certifies that the Dominion Atlantic Railway Company's proportions of the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1067, approved herein, are as follows:—

Via		Cents per 100 pounds	
		Tariff	Normal
	Truro, N.S.	6·25	7·8
	Windsor Junction, N.S.	5·5	6·9

The normal toll to Truro, N.S., is 10 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55572

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.13

SATURDAY, the 12th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 1063, filed by the Dominion Atlantic Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 1063, approved herein, are as follows:—

Local Distance Rates		Cents per 100 pounds			
Miles		Groups			
		A	B	C	D
5	.....	6	4½	4½	4½
10	.....	6½	4½	5	4½
20	.....	7½	5	5	5
30	.....	9	6½	5½	5
40	.....	9½	7	6	6
50	.....	9½	7	6	6½
60	.....	10½	7½	6½	6½
70	.....	11	7½	6½	7
80	.....	12	9½	7	7½
90	.....	12½	9½	7½	7½
100	.....	13½	9½	8½	8½
125	.....	14	10	9	9
150	.....	14½	10½	9½	9½
175	.....	15½	12	10	10½
200	.....	16½	14	10½	11
225	.....	17	..	11	12
250	.....	17½	..	12	13

Item	From	Cents per 100 pounds	
55	Falmouth, N.S.	8	
	Kennetcook, N.S.	10	
	South Maitland, N.S.	11½	
60	Weymouth, N.S.	7	
	Church Point, N.S.	7	
	Brazil Lake, N.S.	6	
65	Clifton, N.S.	4	
	Rhine's Siding, N.S.	5	
	Clarksville, N.S.	6	
	Windsor, N.S.	7½	
70	Grove's Siding, N.S.	4	
	Three Mile Plains, N.S.	5	
	Windsor, N.S.	6	
75	To		
	Lawrencetown, N.S.	10	
	Berwick, N.S.	8½	
	Kingsport, N.S.	8½	
	Weston, N.S.	8½	
	Port Williams, N.S.	7	
	Hantsport, N.S.	6½	
80	Port Williams, N.S.	6	
	Waterville, N.S.	6	
	Berwick, N.S.	7	
	Canning, N.S.	6	
85	.....	13	
90	From		
	Mount Uniacke, N.S.	5½	
	Falmouth, N.S.	6	
	Weymouth, N.S.	9	
	Hutt's Siding, N.S.	5½	
	Miles		
95	20	3	
	50	3½	
	60	5	
	90	5½	
	125	6	
	150	8	
	From		
100	Upper Clements, N.S.	4½	
	Little Brook, N.S.	4	
105	10th class rates covered by previous order or orders.		
110	From		
	Clarksville, N.S.	7½	
	O'Brien Siding, N.S.	7½	
	Kennetcook, N.S.	8	
	Burton's, N.S.	8	
	Lower Truro, N.S.	8½	

Item	From	Cents per 100 pounds	
115	Middleton, N.S.	10½	
	Bridgetown, N.S.	11	
	Meteghan, N.S.	13	
	Hebron, N.S.	13	
	Yarmouth, N.S.	12½	
120	Stanley, N.S.	4	
	Kennetcook, N.S.	5½	
125	Brazil Lake, N.S.	12½	
	Meteghan, N.S.	11	
		C.L.	L.C.L.
130	Brazil Lake, N.S.	21½	35

Miles	Export Distance Rates	To		
		Halifax, N.S.	Windsor, N.S.	Others
10		4½	4½	5
20		5	5	5½
30		6	6	6½
40		6½	6½	7
50		7	7	7
60		8	8	8½
70		9	9	9½
80		9½	9½	10
90		10	10	10
100		11	11	11½
125		11½	11½	11½
150		12	12	12
175		13	13	13½
200		15	15	15½
225		16	16	16½
250		17	17	17½

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55582

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

TUESDAY, the 15th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

It is ordered: That the tolls published in the following tariffs filed by the Canadian National Railways under Section 3 of the Maritime Freight Rates Act be, and they are hereby approved, namely:—

Supplement 13 to Tariff C.R.C. No. E-1248.

Supplement 25 to Tariff C.R.C. No. E-1745.

Supplement 50 to Tariff C.R.C. No. E-1829.

Supplement 44 to Tariff C.R.C. No. E-1974.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55597

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act

File No. 34822.12

THURSDAY, the 17th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Boards orders:

1. That the toll published in item 224 of Supplement No. 43 to Tariff C.R.C. No. E-4322, filed by the Canadian Pacific Railway Company under Section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of Section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of Section 9 of the said Act, on traffic carried under the said item 224 of Supplement No. 43 to Tariff C.R.C. No. E-4322, approved herein, is 6 cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner,

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF RAILWAY COMMISSIONERS, DECEMBER, 1937

Railway accidents.. . . . 91 with 14 killed and 102 injured
Railway accidents at highway crossings.. . . 36 with 6 killed and 58 injured

	Killed	Injured
Passengers.. . . .	1	29
Employees.. . . .	3	64
Others.. . . .	16	67
	<u>20</u>	<u>160</u>

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

Accidents K. I.
1 — 1 Auto Truck—Truck ran into side of train. Licence N.S. C-18069.
1 — 1 Automobile—Auto ran into side of train. Licence N.S. 33-399.

NEW BRUNSWICK

1 1 — Pedestrian—Boy coasting down hill, ran under pilot of engine.
1 — 1 Automobile—Auto ran into side of train. Licence N.B. V-064.

QUEBEC

1 — 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Que. 13992.
1 — 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Que. M-12591.
1 — 1 Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Que. 133-900.
1 — 1 Automobile—Auto driver failed to stop for crossing. Licence Que. 100-990.
1 — 1 Automobile—Auto driver failed to stop for crossing. Licence Que. 80-992.
1 — 6 Automobile—Auto driver failed to stop for crossing; ran into side of train. Licence Vt. 28-141.

ONTARIO

Accidents K. I.

- | | | |
|---|-----|---|
| 1 | — 1 | Automobile—Auto driver failed to observe bell and wig-wag protection; drove onto crossing in front of approaching train and was struck. Licence Ont. 4-N-200. |
| 1 | 2 — | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 95-C-26. |
| 1 | — 1 | Automobile—Auto ran into side of train. Licence Ont. 1-A-238. |
| 1 | — 1 | Automobile—Excessive speed; drove onto crossing in front of approaching train and was struck. Licence Ont. 835-P-2. |
| 1 | — 6 | Automobile—Auto ran into side of train. Licence Ont. 89-L-33. |
| 1 | — 1 | Automobile—Auto ran into side of train. Licence Ont. 10-D-21. |
| 1 | — 2 | Automobile—Auto ran into side of train. Licence Ont. 863-H-4. |
| 1 | — 1 | Horse Drawn Vehicle—H.D.V. drove onto crossing in front of approaching train and was struck. |
| 1 | — 1 | Automobile—Auto struck hand car. Licence Ont. 42-L-95. |
| 1 | — 1 | Automobile—Auto ran into side of train. Licence Ont. 4-J-560. |
| 1 | — 1 | Automobile—Auto approached crossing, skidded when being stopped; and came into contact with side of engine. Licence Ont. 90-F-70. |
| 1 | — 1 | Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Ont. 33545-C. |
| 1 | — 1 | Auto Truck—Truck driver attempted to beat train over crossing. Licence Ont. 74285-C. |
| 1 | — 1 | Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Ont. 76450-C. |
| 1 | — 1 | Pedestrian—Woman walking on right of way, struck by engine. |
| 1 | — 3 | Automobile—Auto was unable to stop owing to slippery condition of roadway, and was struck by train. Licence Ont. 8-A-832. |
| 1 | 1 — | Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 7-K-392. |
| 1 | — 4 | Automobile—Auto ran into side of train. Licence Ont. 5-M-761. |
| 1 | — 1 | Automobile—Auto ran into side of train. Licence Ont. 27-M-37. |
| 1 | 1 — | Automobile—Excessive speed; auto drove onto crossing in front of approaching train and was struck. Licence Ont. 208-M-8. |

MANITOBA

- | | | |
|---|-----|--|
| 1 | — 4 | Auto Truck—Truck ran into side of train. Licence Man. T-3733. |
| 1 | 1 2 | Horse Drawn Vehicle—H.D.V. drove onto crossing in front of approaching train and was struck. |

ALBERTA

- | | | |
|---|-----|--|
| 1 | — 6 | Automobile—Auto skidded into side of train owing to icy condition of roadway. Licence Alta. 94434. |
| 1 | — 2 | Auto Truck—Truck drove onto crossing in front of approaching train and was struck. Licence Alta. D-13-749. |
| 1 | — 1 | Auto Truck—Truck failed to heed warning signals given by yardman; drove onto crossing in front of approaching train and was struck. Licence Alta. A-283. |

BRITISH COLUMBIA

- | | | |
|---|-----|---|
| 1 | — 1 | Automobile—Auto skidded on slippery pavement onto track in front of track motor car. Licence B.C. 42-049. |
|---|-----|---|

Of the 36 Accidents at Highway Crossings, 30 occurred at Unprotected Crossings, and 6 at Protected Crossings. Seventeen of the Accidents occurred during the Daylight Hours, and 19 at Night.

February 8, 1938:

*Re Demurrage Penalties Assessed by the Canadian Car Demurrage Bureau
under General Orders 201 and 349*

The following tables present in summarized form the reports of the Canadian Car Demurrage Bureau covering car demurrage charges assessed for the year 1937.

NOTE.—First two days over free time \$1 per day; three days or more, \$5 per day.

EASTERN CANADA

1937	Total cars handled	Number released within free time	Per cent	Number held over free time	Per cent	Number held under 3 days over free time	Per cent	Number held 3 days or more over free time	Per cent
January.....	149,310	143,835	96.33	5,475	3.67	4,617	3.09	858	0.58
February.....	157,312	151,697	96.43	5,615	3.57	4,944	3.14	671	0.43
March.....	180,715	174,570	96.60	6,145	3.40	5,234	2.90	911	0.50
April.....	171,266	164,359	95.97	6,907	4.03	5,810	3.39	1,097	0.64
May.....	180,211	171,898	95.39	8,313	4.61	6,621	3.67	1,692	0.94
June.....	181,991	173,657	95.42	8,334	4.58	6,528	3.58	1,806	1.00
July.....	182,482	173,857	95.27	8,625	4.73	6,834	3.75	1,791	0.98
August.....	177,878	170,040	95.59	7,838	4.41	6,298	3.54	1,540	0.87
September.....	190,496	181,626	95.34	8,870	4.66	7,139	3.75	1,731	0.91
October.....	202,384	193,733	95.73	8,651	4.27	7,362	3.64	1,289	0.63
November.....	182,428	175,214	96.05	7,214	3.95	6,175	3.38	1,039	0.57
December.....	154,075	147,234	95.56	6,841	4.44	5,800	3.76	1,041	0.68
Total.....	2,110,548	2,021,720	.....	88,828	.....	78,027	.....	15,466	.....
Monthly Av'ge.	175,879	168,477	95.81	7,402	4.19	6,502	3.47	1,289	0.73

WESTERN CANADA

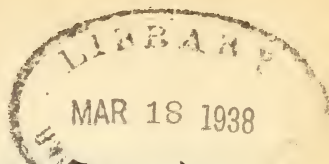
January.....	75,022	72,959	97.25	2,063	2.75	1,930	2.57	133	0.18
February.....	69,559	67,834	97.52	1,725	2.48	1,606	2.31	119	0.17
March.....	78,271	76,510	97.75	1,761	2.25	1,611	2.06	150	0.19
April.....	67,403	65,650	97.40	1,753	2.60	1,534	2.28	219	0.32
May.....	67,403	65,826	97.66	1,577	2.34	1,386	2.06	191	0.28
June.....	54,921	53,674	97.73	1,247	2.27	1,059	1.93	188	0.34
July.....	53,678	57,446	97.90	1,232	2.10	1,122	1.91	110	0.19
August.....	73,123	71,782	98.16	1,346	1.84	1,189	1.63	157	0.21
September.....	104,950	102,725	97.88	2,225	2.12	2,051	1.95	174	0.17
October.....	122,308	119,727	97.89	2,581	2.11	2,295	1.88	286	0.23
November.....	108,521	105,092	96.84	3,429	3.16	2,884	2.66	545	0.50
December.....	88,141	85,629	97.15	2,512	2.85	2,209	2.51	303	0.34
Total.....	968,305	944,854	.....	23,451	.....	20,876	.....	2,575	.....
Monthly Av'ge.	80,692	78,738	97.59	1,954	2.41	1,739	2.15	215	0.26

OTTAWA, February 21, 1938.

P. F. BAILLARGEON,
Secretary, B.R.C.

The Board of

Railway Commissioners for Canada



Judgments, Orders, Regulations, and Rulings

Vol. XXVII

Ottawa, March 15, 1938

No. 26

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Application of N. F. Judah, Edmonton, Alta., for a ruling as to the L.C.L. rating applicable on articles described as Self-piercing Steel Rivets and Burrs, Coppered, in Canadian Freight Classification No. 18.

File No. 33365.107

RULING

BY THE BOARD:

The applicant and the Canadian Freight Association have set out their position and contentions in written submissions filed with the Board. We have also been furnished with samples of the articles in question, which are used for reinforcing the pockets of overalls. Second-class rating was charged and applicant alleges that Item 8, page 179 of Classification No. 18 governs, which is the provision for "Rivets, iron or steel, plain or brass or copper coated." We do not consider the item quoted by applicant governs, because it covers only rivets, whereas these shipments consisted of two articles enclosed in the same package, viz., rivets and burrs. There was no specific provision in the classification for burrs.

While applicant expressed the opinion that rating provided for rivets should apply on burrs, under Classification Rule 21 (*re* application to articles not classified, the rating provided for analogous articles), because they are sold to be used with rivets, we do not consider this reasoning sound. The fact that some article is sold to be used with another does not bring it within the provisions of Rule 21, as there may be no analogy, the transportation characteristics of the two articles being entirely dissimilar and justifying different ratings. Ploughshares and points are used with ploughs; barrel covers are used with barrels; washers are used with rivets; but they do not take the same ratings, and the classification is replete with such differences.

Amongst other definitions of the word "burr" in Webster's New International Dictionary, it is described as "a small washer put on the end of a rivet before it is swaged down." The terms "burr" and "washer" are synonymous.

Iron or steel rivets, plain or copper coated, are rated 4th class, L.C.L., in boxes. Iron or steel washers are rated 3rd class, L.C.L., in boxes. Section 3, Classification Rule 16, provides that the charge for a package containing freight of more than one class shall be at the L.C.L. rating for the highest-classed freight contained in the package.

We, therefore, consider and find that, when rivets and burrs, iron or steel, plain or brass or copper coated, are enclosed in the same package in boxes, rating of 3rd class, L.C.L., is applicable under the provisions of Canadian Freight Classification No. 18.

Applicant alleges that these articles shipped together have, in many cases, been charged the rivet rating. If the shipments were described as "rivets" and were not checked by a freight inspector at origin or destination, they would, no doubt, be billed as rivets, but that has been due to an incomplete description or a misdescription, and has no bearing on the rating properly applicable.

OTTAWA, March 1, 1938.

ORDER No. 55606

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.8

SATURDAY, the 19th day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in item No. 1 of Tariff C.R.C. No. 60, filed by the Sydney & Louisbourg Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal toll, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said item No. 1 of Tariff C.R.C. No. 60, approved herein, is 12½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55609

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 21st day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 16 to Tariff C.R.C. No. E-1671
 Supplement 49 to Tariff C.R.C. No. E-1911
 Supplement 45 to Tariff C.R.C. No. E-1974
 Supplement 44 to Tariff C.R.C. No. E-2248
 Supplement 10 to Tariff C.R.C. No. E-2474
 Supplement 17 to Tariff C.R.C. No. E-2526
 Tariff C.R.C. No. E-2743.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55616

In the matter of the application of the New York Central Railroad, hereinafter called the "Applicant," for permission to file, on less than statutory notice, a tariff for application on export traffic through United States ports.

File No. 27612.171

FRIDAY, the 25th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

WHEREAS, in the revision of international class rates published to be effective March 3, 1938, through a misunderstanding the Applicant neglected to provide for continuance of the present rates for application on export traffic through United States ports, and it is desired to make such provision effective on one day's notice, but not earlier than March 3, 1938, in order to avoid any increase in rates on the said traffic—

It is ordered: That the applicant be, and it is hereby, granted leave to file, on one day's notice, a tariff to provide for continuance of the present rates for application on export traffic through United States ports.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55617.

In the matter of the application of the Canadian National Railways, hereinafter called the "Applicants," for permission to file on less than statutory notice specific commodity rates on newsprint paper, in carloads, from Thorold, Ontario, to destinations in Central Freight Association territory, which will be the same as the rates currently in effect.

File No. 24602.14

FRIDAY, the 25th day of February, A.D. 1938.

HON. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

WHEREAS the rates currently in effect as maxima on newsprint paper, in carloads, from Thorold to destinations in Central Freight Association territory are in accordance with the Board's Order No. 50913, dated April 5, 1934, namely, 6th class rates, as published in Agent G. C. Ransom's Tariff C.R.C. No. 231, governed by exceptions to Official Classification, Agent Ransom's Tariff C.R.C. No. 852;

AND WHEREAS, effective March 3, 1938, revised international class rates have been published, as a result of which the 6th class rates from Thorold to Central Freight Association territory are being increased and will be in excess of the rates found reasonable for application on newsprint paper in the Board's Order No. 50913, and applicants desire to amend their Tariff on one day's notice, but not earlier than March 3, 1938, so as to provide, by specific commodity rates, for continuance of the present rates, and state that intermediate and destination carriers are agreeable to the contemplated action—

It is ordered: That the applicants be, and they are hereby, granted leave to file, on one day's notice, a supplement to their Tariff C.R.C. No. E-2646 publishing specific commodity rates on newsprint paper, in carloads, from Thorold, Ontario, to destinations in Central Freight Association territory, which will be subject as maxima to the 6th class rates currently in effect under the provisions of Agent G. C. Ransom's Tariff C.R.C. No. 231.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55639

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

MONDAY, the 28th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in Tariff C.R.C. No. 764, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 764, approved herein, are as follows:—

Miles	Cents per 100 pounds
10	6½
20	8
50	12½
70	15
90	19
115	20

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55640

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.14

MONDAY, the 28th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the toll published in Tariff C.R.C. No. 763, filed by the Temiscouata Railway Company under section 9 of the Maritime Freight Rates Act, be, and it is hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said Tariff C.R.C. No. 763, approved herein, is 7½ cents per 100 pounds.

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55641

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.12

MONDAY, the 28th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders:

1. That the tolls published in items 310 of 2nd revised page 24, and 490 of 2nd revised page 31, of Tariff C.R.C. No. E-4757, filed by the Canadian Pacific Railway Company under section 9 of the Maritime Freight Rates Act, be, and they are hereby, approved, subject to the provisions of subsection 3 of section 3 of the said Act.

2. And the Board hereby certifies that the normal tolls, for the purpose of reimbursement under subsection 3 of section 9 of the said Act, on traffic carried under the said items 310 of 2nd revised page 24, and 490 of 2nd revised page 31, of Tariff C.R.C. No. E-4757, approved herein, are as follows:—

Item		Cents per 100 pounds
310	To Port Colborne, Ont.	101
	From Milltown, N.B., the above normal rate plus 2½ cents per 100 pounds.	

Item	From	To	Cents per 100 pounds
490	Yarmouth, N.S.	Levis, Que.	54½
	"	Montreal, Que.	55
	"	Quebec, Que.	54½
	One and one-half cents per 100 pounds to be deducted account of water haul.		

H. GUTHRIE,
Chief Commissioner.

ORDER No. 55642

In the matter of tariffs and supplements to tariffs filed under the provisions of the Maritime Freight Rates Act.

File No. 34822.2

MONDAY, the 28th day of February, A.D. 1938.

Hon. HUGH GUTHRIE, K.C., *Chief Commissioner.*

G. A. STONE, *Commissioner.*

The Board orders: That the tolls published in the following tariffs filed by the Canadian National Railways under section 3 of the Maritime Freight Rates Act be, and they are hereby, approved, subject to the provisions of subsection 3 of the said section 3, namely:—

Supplement 25 to Tariff C.R.C. No. E-1256
 Supplement 32 to Tariff C.R.C. No. E-2047
 Supplement 35 to Tariff C.R.C. No. E-2047
 Supplement 45 to Tariff C.R.C. No. E-2248
 Supplement 28 to Tariff C.R.C. No. E-2444
 Tariff C.R.C. No. E-2745

H. GUTHRIE,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF RAILWAY COMMISSIONERS, JANUARY, 1938

Railway Accidents... 106 with 15 Killed and 117 Injured
 Railway Accidents at Highway Crossings..... 20 with 5 Killed and 28 Injured

	Killed	Injured
Passengers..	2	23
Employees..	6	87
Others..	12	35
	<hr/> 20	<hr/> 145

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NEW BRUNSWICK

Accidents	K.	I.	
1	-	2	Automobile—Auto ran into side of train. Licence N.B. 28986.
1	-	5	Auto Taxi —Auto taxi ran into side of train. Licence N.B. 6973.

QUEBEC

1	1	-	Automobile—Auto driver disregarded bell and wigwag signal; drove onto crossing in front of approaching train and was struck. Licence Que. 131-947.
1	1	2	Automobile—Auto driver failed to heed warning signal of watchman. Licence Que. 81-182.

ONTARIO

1	2	-	Automobile—Automobile drove onto crossing in front of approaching train and was struck. Licence Ont. 5-W-858.
1	-	1	Automobile—Automobile drove into side of train. Licence N.Y. 3-B-1370.
1	-	1	Auto Truck—Auto truck ran through gates in lowered position; drove onto crossing in front of approaching train and was struck. Licence Ont. 47902-C.
1	-	2	Auto Truck—Auto truck driver disregarded signal of flagman; drove onto crossing in front of approaching train and was struck. Licence Ont. 67379-C.
1	-	1	Auto Truck Auto truck drove onto crossing in front of approaching train and was struck. Licence Ont. 62856-C.
1	-	1	Auto Truck—Auto truck ran into side of train. Licence Ont. 69111-C.
1	-	2	Auto Truck—Auto truck ran into side of train. Licence Ont. 1801-D.
1	-	1	Automobile—Automobile ran into side of train. Licence Ont. 71-F-33.
1	-	2	Automobile—Automobile, windows badly frosted, drove onto crossing in front of cars being pushed over crossing. Licence Ont. 297-S-1.
1	-	1	Auto Truck—Auto truck drove onto crossing in front of approaching train and was struck. Licence Ont. T-57027-C.
1	-	3	Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 1-N-185.
1	-	1	Automobile—Auto drove onto crossing in front of approaching train and was struck. Licence Ont. 565-M-1.
1	1	-	Automobile—Automobile ran into side of train. Licence Ont. 90-F-56.

SASKATCHEWAN

1	-	1	Auto Taxi —Auto Taxi drove onto crossing in front of approaching train and was struck. Licence Sask. L-43.
1	-	1	Auto Truck—Auto truck ran into side of train. Licence Sask. CV-2641.
1	-	1	Horse drawn Vehicle—Horse drawn vehicle drove onto crossing in front of approaching train and was struck.

Of the 20 accidents at highway crossings, 17 occurred at unprotected crossings and 3 at protected crossings.

Seven of the accidents occurred after sunrise and 13 after sunset.

MARCH 2, 1938.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 55532. Feb. 1—Authorizing the C.N.R. to remove station agent at Naco, Alta., and appoint caretaker.
- 55533. Feb. 1—Refusing application of the C.N.R. for leave to remove station agent at New Brigden, Alta.
- 55534. Jan. 31—Authorizing the C.N.R. to reconstruct bridge at mileage 34·2 Montreal to Granby Branch of the Montreal & Southern Counties Railway.
- 55535. Jan. 31—Authorizing the C.N.R. to reconstruct bridge at mileage 25·3 Montreal to Granby Branch of the Montreal & Southern Counties Railway.
- 55536. Feb. 2—Authorizing the C.N.R. to construct proposed siding across Wesley St., Kitchener, Ont.
- 55537. Feb. 2—Authorizing the Municipal Corporation of the city of Sudbury, Ont., to construct a footbridge over the C.N.R. to connect Bond St. with Miles St.
- 55538. Feb. 2—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in items of tariff filed by the C.P.R. under Sec. 9.
- 55539. Feb. 4—Authorizing the C.N.R. to file on one day's notice a supplement to their tariff C.R.C. No. E-1974 to correct an error.
- 55540. Feb. 2—Authorizing the C.P.R. to remove station agent at Fusilier, Sask., and appoint a caretaker.
- 55541. Feb. 2—Refusing application of C.P.R. for leave to remove station agent at Superb, Sask.
- 55542. Feb. 4—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55543. Feb. 3—Requiring the C.N.R. to install bell and wigwag at crossing at Monastery Station, N.S.
- 55544. Feb. 4—Approving supplement to service station application between the Bell Telephone Co. and Victoria Rural Telephone Co. Ltd.
- 55545. Feb. 4—Approving supplement to service station application between the Bell Telephone Co. and the Lacloue Rural Telephone Co.
- 55546. Feb. 4—Authorizing the C.N.R. to reconstruct bridge at mileage 21·6 Montreal to Granby Branch of Montreal & Southern Counties Railway.
- 55547. Feb. 4—Requiring the C.N.R. to install bell and wigwag at mileage 103·89 Mulgrave Subdv.
- 55548. Feb. 4—Authorizing the C.N.R. to reconstruct bridge at mileage 0·32 Marieville Junction to Ste. Angele Branch of Montreal & Southern Counties Railway.
- 55549. Feb. 4—Approving traffic agreement between the Bell Telephone Co. and Mark Mervyn (The Elmwood Telephone System).
- 55550. Feb. 4—Approving supplement to service station application between the Bell Telephone Co. and the West Lake Telephone Co., Ltd.
- 55551. Feb. 4—Approving traffic agreement between the Bell Telephone Co. and the Maberly Telephone Co., Ltd.
- 55552. Feb. 4—Requiring the C.P.R. to install bells and wigwags at crossing of Marie de l'Incarnation St., Quebec, Que.
- 55553. Feb. 7—Approving plan showing alterations proposed to be made by the C.N.R. to bridge over Oromocto river, N.B.
- 55554. Feb. 7—Approving plan showing location of proposed gasoline storage tanks and gasoline service lines for the C.P. Express Garage on Wellington St., Toronto, Ont.
- 55555. Feb. 8—Authorizing the Ocean Timber Co., of Vancouver, B.C., to connect its logging railway with track of the Esquimalt & Nanaimo Railway Co., at Lake Cowichan, Vancouver Island, B.C.
- 55556. Feb. 7—Approving plan showing proposed changes in the gasoline storage depot of the Shell Oil Company of Canada, Ltd., Ridgetown, Ont.
- 55557. Feb. 8—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55558. Feb. 7—Approving location of gasoline storage tanks and gasoline service lines to serve the C.P. Express Garage in Place Viger Yard, Montreal.
- 55559. Feb. 8—Authorizing the Essex Terminal Railway Co. to construct siding across Hill Ave., in city of Windsor, Ont.
- 55560. Feb. 8—Authorizing the C.N.R. to construct extension to sidings in township of Marmora, Ont., to serve Bonter Brothers.
- 55561. Feb. 8—Authorizing the C.N.R. to reconstruct bridges at mileages 42·1 and 22·9 Montreal to Granby Branch of the Montreal & Southern Counties Railway.
- 55562. Feb. 8—Authorizing the C.N.R. to operate over subway constructed at mileage 5·61 Grimsby Subdv.
- 55563. Feb. 8—Authorizing the C.N.R. to operate over subway constructed at mileage 5·61 Grimsby Subdv.
- 55564. Feb. 9—Declaring the C.P.R. crossing near Sault Ste. Marie station, Ont., protected to Board's satisfaction.

- 55565. Feb. 9—Declaring the C.N.R. crossing of Fraser St., Port Colborne, Ont., protected to Board's satisfaction.
- 55566. Feb. 9—Authorizing the C.P.R. to remove station agent at Queenstown, Alta.
- 55567. Feb. 10—Authorizing the Dept. of Highways for Ontario to construct additional roadway of proposed dual highway over the tracks of the N.Y.C. at mileage 214·79, Maidstone, Ont.
- 55568. Feb. 11—Slightly amending Order No. 54768 requiring the county of Victoria, Ont., to improve sight lines at C.N.R. crossing mileage 10·31 Midland Subdv.
- 55569. Feb. 10—Authorizing the C.P.R. to construct branch line to serve Excelsior Products Ltd. at Montreal, Que.
- 55570. Feb. 12—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs and supplement to tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 55571. Feb. 10—Requiring the C.N.R. to install bells and wigwags at crossing near St. Thomas, Ont., at mileage 2·61 Chatham Subdv.
- 55572. Feb. 12—Declaring the C.N.R. crossing at mileage 46 Rouse's Point Subdv., protected to Board's satisfaction.
- 55573. Feb. 12—Approving clearances of proposed false framework to be constructed by the Dept. of Roads for province of Quebec across the C.N.R. at mileage 103·1 Matapedia Subdv.
- 55574. Feb. 14—Approving supplement to service station contract between the Bell Telephone Co. and the Ardrea Telephone Co., Ltd.
- 55575. Feb. 12—Slightly amending Order No. 24869 dated April 6, 1916, covering protection of that portion of railway of the V.V. & E. Rly. & Nav. Co. between Ocean Park and White Rock, B.C.
- 55576. Feb. 12—Amending Order No. 54847 to provide for four wigwags, two bells, etc., at C.N. Rys. crossing of Middle Road, Burlington, Ont.
- 55577. Jan. 20—Approving location of gasoline and storage tanks, etc., for Imperial Oil Limited at Woodstock, N.B. (C.P.R.)
- 55578. Feb. 15—Refusing application of the R.M. of St. Andrews No. 287, Sask., for construction of highway crossing over C.P.R.
- 55579. Feb. 15—Authorizing the C.N.R. to operate over subway at mileage 12·37 Brampton Subdv., Ont.
- 55580. Feb. 15—Approving under Maritime Freight Rates Act, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55581. Feb. 15—Slightly amending Order No. 55064 to provide that no car shall be allowed to stand on the portion of the branch line which is on St. Patrick St.
- 55582. Feb. 16—Approving location of siding, pipe line and oil tanks to be erected at Amherst, N.S., to serve the Imperial Oil Ltd. (C.N.R.).
- 55583. Feb. 16—Declaring the C.P.R. crossing at Union St., West Saint John, N.B., protected to Board's satisfaction.
- 55584. Feb. 16—Declaring the C.N.R. crossing at mileage 69·4 Kapuskasing Subdv. protected to Board's satisfaction.
- 55585. Feb. 16—Declaring the C.N.R. crossing at mileage 2·86 Sudbury Subdv. protected to Board's satisfaction.
- 55586. Feb. 17—Requiring the C.P.R. to install one bell and two wigwags at crossing at mileage 48 Macleod Subdv.
- 55587. Feb. 16—Amending Order No. 53517 to change protection at C.N.R. crossing at mileage 34·2 Newmarket Subdv.
- 55588. Feb. 16—Declaring the C.P.R. crossing at mileage 102·54 Shogomoc Subdv. protected to Board's satisfaction.
- 55589. Feb. 17—Requiring the C.N.R. to install bell and wigwag at mileage 7·35 Chester Subdv.
- 55590. Feb. 16—Amending Order 55487 by striking out the word "automatic" where it occurs.
- 55591. Feb. 16—Approving plan showing signal protection layout between Atherley Junction and Orillia, Ont., C.N.R.
- 55592. Feb. 17—Authorizing the Dept. of Highways and Transportation for Saskatchewan to construct highway crossings over C.N.R. east of NE $\frac{1}{4}$ of Sec. 5, 45, 1, W2M, Sask., and east of NE $\frac{1}{4}$ of Sec. 6, 45, 1, W2M, Sask.
- 55593. Feb. 17—Approving revised location of C.N.R. Smithers Division mileages 75·33 to 76·03 and mileages 96, 98·6, and 105.
- 55594. Feb. 17—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in supplement to tariff filed by the C.P.R. under Sec. 9.
- 55595. Feb. 17—Authorizing the C.P.R. to construct an extension of branch line to serve the British Columbia Veneer Works, Ltd., at mileage 137·26 Nelson Subdv.
- 55596. Feb. 19—Declaring the C.N.R. crossing at mileage 13·8 Rhein Subdv. protected to Board's satisfaction.
- 55597. Feb. 19—Declaring the C.N.R. crossing at mileage 37·9 Duck Lake Subdv., protected to Board's satisfaction.

- 55601. Feb. 19—Declaring the C.N.R. crossing at mileage 0·0 Meaford Subdv. protected to Board's satisfaction.
- 55602. Feb. 18—Approving traffic agreements between the Bell Telephone Co. and Christie's Lake Telephone Co., Ltd., Balderson Telephone Co., Ltd., Drummond Centre Telephone Co., and service station contract with the Kingston Road Rural Telephone Co., Ltd.
- 55606. Feb. 19—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, toll published in tariff filed by the Sydney & Louisburg Railway Co. under Sec. 9.
- 55607. Feb. 21—Declaring the C.N.R. crossing at mileage 115·8 Lewvan Subdv. protected to Board's satisfaction.
- 55608. Feb. 18—Requiring the C.P.R. to install bells and wigwags at mileage 41·50 Winchester Subdv.
- 55609. Feb. 21—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 55610. Feb. 21—Approving clearances at shed used for storage by Conklin-All-Canadian Shows, Ltd., at Brantford, Ont. (C.N.R.).
- 55611. Feb. 21—Requiring the C.N.R. to install bell and wigwag at 0·50 of a mile southwest of Arcadia Station, N.S.
- 55612. Feb. 21—Relieving the C.P.R. from maintaining cattle guards at certain points on its Goderich Subdv.
- 55613. Feb. 22—Authorizing the Canadian Collieries (Dunsmuir) Ltd., to construct a coal mine entrance tunnel and airway passage beneath main line track of Esquimalt & Nanaimo Railway Co. at mileage 66·4 Victoria Subdv., B.C.
- 55614. Feb. 22—Approving plans showing details of culverts to be constructed by C.P.R. at certain mileages on its Quebec Subdv.
- 55615. Feb. 21—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Portal Subdv.
- 55616. Feb. 25—Authorizing the N.Y.C. to file on one day's notice a tariff to provide for continuance of present rates for application on export traffic through U.S. ports.
- 55617. Feb. 25—Authorizing the C.N.R. to file on one day's notice a supplement to their tariff C.R.C. No. E-2646.
- 55618. Feb. 24—Declaring the C.P.R. crossing at mileage 30·22 Windsor Subdv. protected to Board's satisfaction.
- 55619. Feb. 24—Declaring the Pere Marquette Railway crossing west of Pelton, Ont., protected to Board's satisfaction.
- 55620. Feb. 24—Declaring the C.P.R. crossings at Lochiel St., Renfrew, Ont., and at mileage 64·14 Windsor Subdv., protected to Board's satisfaction.
- 55621. Feb. 24—Declaring the C.N.R. crossing at mileage 123·1 Three Hills Subdv., protected to Board's satisfaction.
- 55622. Feb. 24—Approving site for storage tanks of the Canadian Oil Companies, Ltd., at Charlottetown, P.E.I. (C.N.R.)
- 55624. Feb. 24—Approving plan showing alterations at interlocking plant at crossing of the C.P.R. Pheasant Hills Branch by the C.N.R. Saskatoon Loop Line.
- 55625. Feb. 24—Amending Order No. 30869 *re* C.N.R. crossing of Main St., Victoriaville, Que., to change protection.
- 55626. Feb. 24—Amending Order No. 55036 *re* C.N.R. crossing of Irishtown road, Sunny Brae, N.B., to enlarge contribution.
- 55627. Feb. 24—Declaring the C.N.R. crossings at mileages 13·08 Rouse's Point Subdv., 55628. Feb. 25 2·61 Chatham Subdv., and 104·66 Sherbrooke Subdv., protected to Board's 55629. Feb. 24 satisfaction.
- 55630. Feb. 26—Authorizing the C.N.R. to discontinue flag station at Hallowell, Ont.
- 55631. Feb. 25—Authorizing the C.N.R. to remove siding installed for G. Howard Gray, at Mount Dennis, Ont.
- 55632. Feb. 26—Approving traffic agreements between Bell Telephone Co. and the Addison 55633. Rural Independent Telephone Co., Ltd., and the Fingal Telephone Co., Ltd.
- 55634. Feb. 28—Approving location of storage tanks of Union Oil Co., Ltd., at Port Moody, B.C. (C.P.R.).
- 55635. Feb. 28—Authorizing the C.P.R. to convert existing farm crossing into a public road crossing over tracks at mileage 17·14 Park Ave., Subdv.
- 55636. Mar. 1—Declaring the Grand River Railway crossing at mileage 2·5 Hespeler Subdv., protected to Board's satisfaction.
- 55637. Mar. 1—Extending time within which C.P.R. may construct branch line to serve Dominion Coal & Wood Ltd., Islington, Ont.
- 55638. Mar. 1—Approving location of tanks for the Canadian Oil Companies, Ltd., at Drummondville, Que. (C.N.R.).
- 55639. Feb. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariffs filed by the Temiscouata Railway Co. under Sec. 9.
- 55640.

- 55641. Feb. 28—Approving under Maritime Freight Rates Act, Sec. 3, subsec. 3, tolls published in tariff filed by the C.P.R. under Sec. 9.
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- 55643. Feb. 22—Amending Order No. 55552 *re* C.P.R. crossing of Marie de l'Incarnation St., Quebec, Que., to provide for single instead of double bells and wigwags.
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THE BOARD OF
RAILWAY COMMISSIONERS FOR CANADA

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OF

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